GAHC010208582026

2026:GAU-AS:15742

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./1341/2026

MD ROFIZUL ALI ALIAS MD ROFIJUL ALI
SON OF MD. EKRAM ALI, RESIDENT OF VILLAGE - CHAPAKHOWA MAZID PATTY, POST OFFICE - CHAPAKHOWA, POLICE STATION - SADIYA, DISTRICT - TINSUKIA, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM.

2:ANAMIKA BORAH
SUB INSPECTOR OF POLICE UB
SHANTIPUR OUT POST
SADIYA POLICE STATION
PIN - 786155
DISTRICT - TINSUKIA
ASSAM

Advocate for the Petitioner : MR. P HAZARIKA, MR. P K MUNIR,MR. A GAYAN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 14-10-2026

Heard Mr. P.K. Munir, learned counsel for the petitioner and Mr. P. Borthakur,

learned Additional Public Prosecutor for the State respondent.

2. In this petition, under Section 528 of the BNSS, read with Article 227 of the Constitution of India, the petitioner, namely, Md. Rofizul Ali @ Rofijul Ali, has challenged the order dated 12.08.2026, passed by the learned Additional Sessions Judge (FTC-2), Tinsukia (trial court hereinafter), in Sessions Case No. 97(CH)/2026, arising out of Sadiya PS Case No. 26/2026, corresponding to GR Case No. 44/2026, in connection with PR Case No. 46/2026.

3. It is to be noted here that vide impugned order, dated 12.08.2026, the learned trial court had dismissed the petition filed by the petitioner herein, seeking custody of six numbers of cattle, seized by the police in connection with the aforementioned case.

4. Mr. Munir, learned counsel for the petitioner, submits that the petitioner herein is the owner of the seized six cattle and that he has all relevant documents. Mr. Munir further submits that after completion of investigation, the police had submitted charge-sheet in the aforementioned case against two persons, namely, Mustaq Ali and Mozibur Rahman, who are the driver and handyman of a Bolero Pickup vehicle, bearing registration No. AS-23-DC-3348.

4.1. Mr. Munir further submits that in the said case, the petitioner, being the owner of the seized cattle, had filed a petition, being petition No. 1284/2026, enclosing all the relevant documents, such as purchase invoice relating to the cattle. But, the learned trial court without appreciating the said documents, vide impugned order, dated 12.08.2026, had dismissed the petition on the ground that there is no material presently available to establish the identity of the ownership of the seized cattle.

4.2. Mr. Munir also submits that the petitioner herein has also enclosed all the documents, such as purchase invoice, with the present petition and that the

impugned order is illegal and therefore, he has contended to interfere with the same and release the seized cattle in the interim custody of the petitioner herein.

5. Per-contra, Mr. Borthakur, learned Additional Public Prosecutor, has vehemently opposed the petition and submits that the petitioner had not produced the relevant documents before the IO during the course of investigation and as such, he may be directed to report to the IO with all the relevant documents. Under such circumstances, Mr. Borthakur has contended to dismiss this petition.

6. Having heard the submissions of learned counsel for both the parties, this Court has carefully gone through the petition as well as the documents placed on record and also perused the impugned order dated 12.08.2026, passed by the learned trial court.

7. It appears that while filing the petition, being petition No. 1284/2026, before the learned trial court, the petitioner had enclosed the purchase invoices in support of his claim and the same has been reflected in the impugned order of the learned trial court, especially in paragraph No. 6. The learned trial court, however, without considering the said documents, in paragraph No. 13, had held that there is no material presently available to establish the identity or ownership of the seized cattle. It has not directed any discussion about the purchase invoice enclosed with the petition.

8. Therefore, the finding so recorded by the learned trial court, appears to be inconsistent. The impugned order, being passed without applying the mind and without recording a finding with regard to the purchase invoice produced by the petitioner herein, failed to withstand the legal scrutiny.

9. Therefore, the same stands set aside and quashed. The matter stands remanded to the learned trial court to give a fresh consideration to the petition filed by the petitioner herein and the documents enclosed therewith and thereafter,

to pass a fresh order, after affording opportunity of being heard to both the parties.

10. The petitioner herein is directed to produce all the relevant documents before the learned trial court at the time of hearing.

11. The aforesaid exercise shall be carried out within a period of 2 (two) weeks from the date of receipt of this order.

12. In terms of above, this petition stands disposed of.

JUDGE

Comparing Assistant