

GAHC010121992022



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

**Case No. : Crl.Rev.P./307/2022**

RAFIKUL ISLAM MONDAL @ ROFIQUL ISLAM  
SON OF NURUZZAMAN MONDAL  
R/O VILL- GERAMARI PART-IV,  
P.O. GERAMARI, P.S. GOURIPUR  
DIST. DHUBRI, ASSAM, PIN-783339

VERSUS

THE STATE OF ASSAM AND ANR  
REP. BY THE PP, ASSAM

2:S.I. PRANAB DOLEY  
SUB-INSPECTOR OF BILASIPARA P.S.  
P.S. BILASIPARA  
BILASIPARA SADAR  
DIST. DHUBR

**Advocate for the Petitioner : MRS. B GOGOI**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HON'BLE MRS. JUSTICE MALASRI NANDI**  
**ORDER**

**07.06.2023**

Heard Ms B Gogoi, learned counsel for the petitioner and Mr P Borthakur, learned Additional Public Prosecutor for the State of Assam.

2. This is an application filed by the petitioner, Rafikul Islam Mondal @ Rofiqu

Islam, under Sections 397/401 CrPC, read with Section 482 CrPC, praying for quashing of the impugned order dated 23.05.2022, passed in Petition No. 952/2022, by the learned SDJM (M), Bilasipara, in connection with Bilasipara PS Case No. 34/2021, corresponding to GR Case No. 66/2021, under Sections 120(B)/420/468/489(D)/34 of the IPC, rejecting the prayer of the petitioner to take zimma of his money amounting to Rs. 4,14,000/- (Rupees Four Lacs Fourteen Thousand) Only

3. The brief facts of the case is that on interrogation made by the Police, some arrested accused persons, in connection with Bilasipara PS Case No. 34/2021, implicated the petitioner, Rofiqui Mondal and another Sofiqui Islam, for possessing some notes and paper cuts equivalent in size with notes and stated that they were waiting in Alomganj within the Gouripur Police Station, whereafter the SI of Bilasipara Police Station, on a direction made by the SDPO Bilasipara and with the help of Gouripur Police, made a search at Alomganj on 10.01.2021 and seized a total amount of Rs. 4,14,000/- and 26 bundles of papers cut in equivalent size of rupee, from the petitioner and the said Sofiqui.

4. It is submitted by the learned counsel for the petitioner that the petitioner is a reputed businessman by profession and earlier he was the owner of brick factories. He also has business outside the State and he is a regular income tax payer having IT return files and no way connected in this case. It is further submitted that all the arrested accused persons are unknown to the petitioner. It is stated by the petitioner that in the first week of the year 2021, he sold a plot of land and on the day of his arrest, i.e., on 10.01.2021, he received Rs. 4,14,000/- from the purchaser of his land and at the time of his arrest the Bilasipara Police officials seized that amount of money.

5. The learned counsel for the petitioner has submitted that, the petitioner approached this Court by filing Bail Application No. 214/2021 and this Court vide order dated 12.02.2021, allowed the bail application and granted bail to him. Thereafter, on 12.03.2022, the petitioner filed one zimma petition before the Court of learned

SDJM(M) Bilasipara, under Section 451, seeking zimma of the amount of Rs. 4,14,000/- (Indian Currency notes), which was seized by the Police. However, the learned SDJM(M) declined to allow the custody of the said money to the petitioner as the Investigating Officer in his report submitted that as per the order of the concerned Court the seized money has been deposited at Sub-Treasury Office of Bilasipara and the said money is yet to be verified and required for further investigation of the case. The petitioner once again filed a zimma petition on 23.05.2022, under Section 451 CrPC, before the same Court, but the learned SDJM(M) neither called for a report from the Investigating Officer nor fixed a date for hearing and finally rejected the zimma petition on the same day. Hence, being aggrieved and dissatisfied by the said impugned orders, the petitioner has filed the present petition.

5. On the other hand, the learned Additional Public Prosecutor submits that as the charge sheet has been submitted vide C.S. No. 339/2022, dated 29.08.2022, in connection with Bilasipara PS Case No. 34/2021, the petitioner may approach before the learned trial Court for taking zimma of the seized money, i.e., Rs. 4,14,000/-

10. I have considered the submissions made by the learned counsel for both the parties. I have also gone through the documents which are available in the record.

11. In view of the above, this criminal petition stands disposed of with a direction to the petitioner to appear before the learned trial Court, along with all the relevant documents in support of the seized money i.e., Rs. 4,14,000/-, which he has claimed to have received from the purchaser of the land and the learned trial Court shall consider the prayer of zimma of the seized money on proper verification of the documents and as per provision of law.

**JUDGE**

**Comparing Assistant**