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2026:GAU-AS:14758

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

Case No. : Crl.Pet./1391/2026

EYAKUB ALI
S/O ABDUR REZZAK, VILLAGE DUDHNATH, P.O. TILAPARA, P.S. CHAPAR, DISTRICT DHUBRI, ASSAM, PIN 783348.

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE LEARNED PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. R ISLAM, MR. K A SAKHA,B HAZARIKA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

05.10.2026

Heard Mr. R. Islam, 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, the petitioner has prayed for quashing the order dated 22.07.2026, passed by the learned Additional Chief Judicial Magistrate, Kokrajhar, in PR Case No. 161/2026.

3. It is to be noted here that vide impugned order dated 22.07.2026, the learned Additional Chief Judicial Magistrate, Kokrajhar, had rejected the petition

No. 1106/2026, filed by the petitioner, seeking custody of Superior White Colour Maruti Ertiga VXI vehicle, bearing registration No. AS-18-F-5839, seized vide MR No. 73/2026, on 24.05.2026, in connection with Kokrajhar PS Case No. 75/2026, under section 303(2)/3(5) of the BNS, read with Section 13(1)/16 of the Assam Cattle Preservation Act and read with Section 11(1)(a) of the Prevention of Cruelty to Animals Act.

4. Mr. Islam, learned counsel for the petitioner, submits that petitioner is the registered owner of the vehicle, bearing registration No. AS-18-F-5839, which was seized in connection with Kokrajhar PS Case No. 75/2026 and that after completion of investigation, charge-sheet was submitted before the learned Additional Chief Judicial Magistrate, Kokrajhar. Thereafter, the petitioner had filed one petition, No. 1106/2026, on 08.07.2026, seeking custody of seized vehicle, before the learned Additional Chief Judicial Magistrate, Kokrajhar. But, the learned Additional Chief Judicial Magistrate, Kokrajhar, had rejected the same on the ground that the case is at the committal stage and the offence is exclusively triable by the court of Sessions.

4.1. Mr. Islam further submits that though charge-sheet has been submitted, yet trial has not been started and that the learned Additional Sessions Judge, Kokrajhar, had issued warrant of arrest against the accused persons due to their non-appearance and there is no certainty when the trial will come to end.

4.2. Mr. Islam also submits that the petitioner is not an accused in the aforementioned case and that he will produce the vehicle as and when required and therefore, he has contended to allow this petition.

4.3. Mr. Islam further submits that since 24.05.2026, the vehicle is lying unattended in the campus of the Kokrajhar Police Station and exposing to the

sun and rain and the value of the same deteriorating day by day.

5. Per-contra, Mr. Borthakur, learned Additional Public Prosecutor, submits that there is no bar in the Assam Cattle Preservation Act in releasing the seized vehicle and that there is only bar in releasing the seized cattle under the said Act. He further submits that since investigation of the case has already been completed and the charge-sheet has been submitted, the vehicle is no longer required for the purpose of investigation.

6. Under the given facts and circumstances on the record and also considering the submissions of learned counsel for both the parties, this Court is inclined to dispose of this petition by directing the learned Additional Chief Judicial Magistrate, Kokrajhar, to release the vehicle in interim custody of the petitioner on his executing an indemnity bond of Rs. 10,00,000/-. Further, it is provided that he shall not alienate the vehicle or change its colour and features and produce the same before the learned trial court as and when directed.

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

JUDGE

Comparing Assistant