

GAHC010005632023



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

Case No. : Crl.Pet./17/2023

MD INTAZUL HAQUE
S/O HARMUZ ALI
PERMANENT RESIDENT OF RANGAMATI, MEDHIPARA
P.S. MANGALDOI,
DIST. DARRANG, ASSAM

VERSUS

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

2:PRADIP CHANGMAI
(ASI)
SON OF LATE KAILAYA CHANGMAI
R/O PANBEDHA
CHANGMAIGAON
P.S. SIBSAGAR

DIST. SIVASAGAR
ASSA

Advocate for the Petitioner : MR A K AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 08-02-2023

Heard Mr. T.K. Mishra, learned counsel for the petitioner as well as Ms. S.H. Bora, learned APP for the State.

2. By filing this criminal petition under section 482 Cr.P.C., the petitioner has assailed the (1) judgment and order dated 22.06.2022 passed by the learned Sessions Judge, Jorhat in CrI. Rev. No.22/2022 and (2) order dated 24.06.2022 passed by the learned Judicial Magistrate First Class, Jorhat in GR case no.148/2022 arising out of Teok P.S. case no.31/2022.

3. By the impugned order, the learned Court below had directed the IO to give Zimma of the TATA truck bearing registration no.AS-01-LC-0295 on his furnishing of bank guarantee of Rs.15 lakh against the seized vehicle.

4. The learned counsel for the petitioner had submitted that the petitioner had enquired with the bank and that the bank requires 100% collateral security for grant of bank guarantee. Hence, it is submitted that the vehicle was purchased by taking loan and the petitioner does not have the capacity to provide bank guarantee.

5. The learned APP opposes the said prayer.

6. It is observed that cattle was unauthorizedly transported in the vehicle of the petitioner. It is not disclosed from the impugned judgment dated 22.06.2022 and the order dated 24.06.2022 passed by the learned Judicial Magistrate First Class, Jorhat that the vehicle of the petitioner is subjected to any confiscation proceedings, the Court is inclined to take notice of the inability

of the petitioner to furnish bank guarantee for a sum of Rs.15.00 lakh and hence the Court is inclined to opine that this is an appropriate case to direct the learned Judicial Magistrate First Class, Jorhat not to insist on the furnishing of the bank guarantee for a sum of Rs.15.00 lakh as a pre-condition for release of the hereinbefore referred vehicle in zimma to the petitioner.

7. However, in lieu of the bank guarantee, the petitioner shall furnish a personal bond for a sum of Rs.15.00 lakh along with a bond of a solvent surety as a condition for release of the said vehicle in zimma to the petitioner.

8. Along with the said bond the petitioner shall also submit a separate undertaking in form of an affidavit that he shall not sell or otherwise dispose of or part with the possession of the said truck without the leave of the learned Judicial Magistrate First Class, Jorhat and that he shall produce the truck before the learned trial Court as and when required, for which the petitioner shall also furnish his mobile number containing Whatsapp facility so as to enable the IO to contact him.

9. The petitioner is permitted to produce a certified copy of this order before the learned Court of Judicial Magistrate First Class, Jorhat.

10. The matter is accordingly disposed of.

JUDGE

Comparing Assistant