

GAHC010023882023



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

Case No. : Crl.Pet./116/2023

SADDAM HUSSAIN
S/O- SAMIR UDDIN, R/O- VILL.- SIMLAI PATHAR, P.O. LANKA, P.S. LANKA,
DIST. HOJAI, ASSAM

VERSUS

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

2:JINJYOTI BURAGOHAIN
SUB-INSPECTOR (P NITAI POLICE OUT POST
P.S. DEMOU
DIST. SIVASAGAR

Advocate for the Petitioner : MR. R BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

13.06.2023

Heard Mr. R. Bora, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam.

2. This criminal petition is filed praying for seeking zimma or custody of a vehicle bearing Registration No.AS-09-AC-1183. It is submitted by the learned counsel for the petitioner that as per the Certificate of Registration, the petitioner is shown as owner of the vehicle, which is a diesel truck. The learned counsel for the petitioner submits that there was an agreement executed with one Gulzar Hussain, vide Agreement dated 10.08.2022, by which the vehicle was given on rent to the said Gulzar Hussain. It is submitted that the said Gulzar Hussain had used the vehicle for transportation of some cattle, which was intercepted by the police and the vehicle was seized along with the cattle. In this connection, an FIR was filed and the same was registered as Demou P.S. Case No.89/2022 under Section 379/411/34 IPC read with Section 13(i) of the Assam Cattle Preservation (Amendment) Act, 2021 (for short "the Act of 2021").

3. The learned counsel for the petitioner submits that he earns his livelihood by plying the vehicle on rent and he is not way connected with the transportation of the said cattle. It is submitted that the agreement was executed between the petitioner and Gulzar Hussain for the period mentioned at a fixed rent mentioned in the said agreement. That apart, the petitioner has been granted the privilege of anticipatory bail, vide order dated 13.12.2022 passed in A.B. 3596/2022. Pursuant to the anticipatory bail granted he had also appeared before the I.O., his statement has also been recorded and he has fully cooperated with the investigation. As such, the impugned order dated 07.01.2023 passed by the Court of the Additional Chief Judicial Magistrate, Sivasagar rejecting the Zimma petition ought to be interfered with and the Zimma of the vehicle be granted to the petitioner. This Court by the earlier orders directed the Additional Public Prosecutor to call for the police report in

respect of the prayer for Zimma of the vehicle.

4. Today Mr. R.J. Baruah, learned Additional Public Prosecutor submits that Case Diary has been received. It is submitted that as per the Case Diary, matter is under further investigation and the vehicle is necessary for the process of investigation to be carried out.

5. Having heard the learned counsel for the parties and upon due perusal of the pleadings available, this Court is of the view that in terms of the provisions of the Act of 2021, the cattle has already been seized by the Investigating Agency and investigation in the instant police case has also been carried on. However, learned Additional Public Prosecutor has not been able to submit any materials from the Case Diary produced that the petitioner has not cooperated with the investigation carried on, more particularly in respect of the vehicle for the custody of which the present petition has been filed. No materials have been presented before this Court to suggest that the vehicle is necessary for further investigation of the said case. Accordingly, this Court is of the view that vehicle bearing Registration No.AS-09-AC-1183, Model No. LPT 3118 as per Certificate of Registration enclosed as Annexure-D (Page-23), particulars of which are also not disputed by the learned Additional Public Prosecutor, be released upon execution of a Bond of Rs.2,00,000/- (Rupees two lakhs) to be renewed from time to time as required by the I.O. till the completion of the investigation or till such further orders as may be passed by the competent Court of law. If, the directions contained in this order regarding execution and extension of bond is not complied with the I.O is at liberty to file necessary application for cancellation of this order or recall of this order.

6. The Criminal Petition is accordingly disposed of, in terms of the above.

JUDGE

Comparing Assistant