

GAHC010093732023



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

Case No. : Crl.Rev.P./176/2023

ANGOM SUJIT SINGH
S/O ANGOM MANI SINGH
R/O KHOTKHOTI THILA BASTI
P.S. AND P.O. KHOTKHOTI
DIST. KARBI ANGLON, ASSAM
PIN-782448

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR D R GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 08-05-2023

1. Heard Mr. D.R. Gogoi, learned counsel for the petitioner, Sri Angom Sujit Singh. Also heard Mr. P Borthakur, learned Addl. PP, appearing for the State.

2. The petitioner has filed an application under sections 401 read with section 397 Cr.P.C., challenging the legality and propriety of the order(s) dated 24.08.2022 and 24.02.2023 passed by the learned Additional Sessions Judge No.3, Nagaon in Special NDPS Case No.112/2022. He has also prayed for modification of the orders.

3. It is submitted on behalf of the petitioner that the vehicle bearing registration No.AS-01EQ-5878 was seized in connection with Samaguri PS Case No.74/2022 under section 22(C) of the NDPS. The petitioner is the registered owner of the vehicle. The vehicle was already sold to Mr. K Arish but the transfer was not complete as the entire process for sale was not cleared by Mr. K Arish. To the surprise of the petitioner, Mr. K Arish misused the vehicle without his knowledge and the vehicle was used for transporting contraband substances. Thereafter when the vehicle was seized in connection with this case, the petitioner had applied for zimma of the vehicle. Vide the impugned order dated 24.08.2022, the learned Additional Sessions Judge passed an order for zimma of the vehicle subject to the condition that the petitioner deposits Rs.4,00,000/- in cash in the refundable head of accounts of A.C No."8443-00-105-0000-0000-00-00-NP-GA-V".

4. The petitioner was also directed to submit the treasury challan to the Court after depositing Rs.4,00,000/- in the Government Treasury, Nagaon and thereafter, on the submission of the challan copies, the O.C was directed to pass necessary directions concerned for handing over of the custody of the vehicle. One month's time was afforded to the petitioner to deposit the amount of Rs.4,00,000/-.

5. The petitioner has come with the prayer for modification of the

order of depositing cash in the treasury.

6. I have considered the submissions at the bar with circumspection.

7. It is submitted on behalf of the petitioner that this order ought to have been set aside as the order for depositing cash is not tenable in law. The petitioner is willing to take the custody of the vehicle on the strength of bank guarantee to be furnished by the petitioner or on execution of any bond to be furnished by the petitioner for the custody of the vehicle.

8. It appears from the Annexure-2 that the zimma petition was treated as rejected as the petitioner failed to produce the Bank Guarantee within 1 (one) month's time from 24.02.2023 as vide order dated 24.08.2022.

9. The petitioner was already given zimma of the vehicle bearing registration No.AS 01 EQ 5878. Without going into the details, the prayer for zimma of the vehicle AS 01 EQ 5878 is allowed to the registered owner of the vehicle under the conditions that the registered owner of the vehicle furnishes Bank Guarantee of Rs.4,00,000.00. The learned Addl. Sessions Judge No.3 may also impose other conditions while allowing zimma of the vehicle to the registered owner of the vehicle bearing registration No.AS 01 EQ 5878.

10. In terms of the above observations, the petition stands disposed of.

JUDGE

Comparing Assistant