

GAHC010096992023



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

Case No. : Crl.Pet./446/2023

MD. MANOWAR AKAND
S/O ABDUL BAREQUE AKAND
R/O VILL- HAHCHARA
P.S. BAGODI
DIST. BARPETA, ASSAM
PIN-781311

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. F A HASSAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

04.08.2023

Heard Mr. S.C. Biswas, learned senior counsel for the petitioner and Mr. D Das, learned Addl. PP, appearing for the State respondent.

The scanned copy of the case diary as called for is received. Mr. D Das,

learned Addl. PP has also submitted a report from the I/O of the concerned PS.

The present petition is filed assailing the order dated 10.02.2023, passed by the learned Sessions Judge, Karimganj in Special Case No.102/2022 arising out of Badarpur PS Case No.160/2022 under sections 22(C)/25/29 of NDPS Act, whereby the prayer of the petitioner seeking custody of seized vehicle bearing registration No.AS-27-C-7217 (Model-1512 LPT Tata) has been rejected.

Though the ownership of the petitioner is not disputed, however, the police has reported that the owner was successful in fleeing away from the place of occurrence when the vehicle was seized and recovery of some contrabands were also made.

The contention of the learned counsel for the petitioner is that for a considerable period already, the seized vehicle is being lying uselessly in the police station and is also getting damaged, has been rejected by the learned court below on the ground that the investigation has not yet completed.

The report reveals that the investigation has already been completed and charge sheet has already been filed. By now it is well settled through the judgment of the Hon'ble Apex Court in ***Sunderbhai Ambala Desai Vs. State of Gujrat*** reported in ***2002 Supp (3) SCR 39*** that in such a situation when a vehicle is seized and the custody of the vehicle is claimed by the owner, then such vehicle may either directed to be released and security should be taken so as to prevent the evidence being lost altered or destroyed or proceed for confiscation.

In view of such settled proposition of law and considering the fact that

charge sheet has already been filed, this court finds no reason in keeping the vehicle lying outside the police station and get it damaged.

In view of the aforesaid report, this Court is of the considered opinion that the Investigating Officer shall forthwith release and handover the zimma of the seized vehicle bearing registration No.AS-27-C-7217 (Model-1512 LPT Tata) to the petitioner, Md. Manowar Akand, subject to furnishing a bond of Rs. 15,00,000/- (fifteen lakhs) to be executed by the petitioner for the said vehicle with further conditions that:

- a) The petitioner/owner shall not change the colour or shall not change structure of vehicle till disposal of the case.
- b) The petitioner/owner shall produce the vehicle before the I/O or concerned Court as and when called for the purpose of investigation or trial.

The I/O is further directed to take photographs of the seized vehicle and keep it with the case record for further reference.

With the aforesaid observation and direction, this criminal petition stands disposed of.

JUDGE

Comparing Assistant