

GAHC010103632023



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

Case No. : Crl.Pet./504/2023

MAMTA DEVI
W/O BINAY KUMAR SINGH
PRESENT ADDRESS- TR CH NO. SSAEW/202/14-15 AM ROAD NAGALAND,
MOKOKCHUNG, NAGALAND, PIN-798601
PERMANENT ADDRESS- VILL- KUWARBASTI OLD PURULIA ROAD,
CHANNKYA PURI
P.S.MANGO, DIST. JHARKHAND, 831012.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A N AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

14.09.2023

Heard Mr. A. N. Ahmed, learned counsel for the petitioner. Also heard Mr. S. H. Bora, learned Additional Public Prosecutor for the State respondent.

2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973, praying for release of the vehicle, vide Registration No. NL-02/Q-4847 which was seized by the police of Gobardhan P.S. on 30.06.2021, in connection with Gobardhana P.S. Case No.137/2021 (corresponding to PRC Case No.100/23) registered under Sections 420/468/471 of IPC, which is pending before the Court of learned SDJM(S), Baksa, Mushalpur.

3. It is submitted by the learned counsel for the petitioner, Mr. A. N. Ahmed that he is the registered owner of the seized vehicle. He also submitted that the case has already been charge-sheeted being charge Sheet No.7/23 on 31.01.2023 before the learned Additional CJM, Baksa, Mushalpur under Section 420/468/471 subsequently the same was transferred before the Court of learned SDJM(S), Baksa, Mushalpur for trial. Thus, further custody of the vehicle is not necessary here in this case.

4. The learned counsel for the petitioner also submits that vide Order dated 14.03.2023 passed in PRC Case No.100/23 in connection with Zimma petition No.4297/2022-23, the prayer for zimma of the petitioner has been rejected by the learned SDJM(S), Baksa, Mushalpur. He further submits that the learned Trial Court had passed the order arbitrarily and illegally.

5. At present the vehicle is in the custody of police and he also submits that due to lapse of 2 years the vehicle has already been damaged. Thus, the present petition has been filed by challenging the order passed by the learned SDJM(S), Baksa, Mushalpur dated 14.03.2023 passed in PRC Case No.100/23 in connection with Zimma petition No.4297/2022-23.

6. In this regard, Ms. S. H. Bora, learned Additional Public Prosecutor that the I.O. had stated that actual owner of the vehicle could not be ascertained. She also submitted that the learned Trial Court has committed no error or mistake while passing the order dated 14.03.2023. The said Court had passed the order after considering the report of the Forensic Department, which was submitted by the I.O., wherein, it has been observed that there may be tampering of chassis and engine numbers. Thus, interference of this Court is not at all necessary here in this case.

7. After considering the submissions made by the learned Advocates of both sides and also I have perused the case record and more particularly the order passed by the learned SDJM(S), Baksa, Mushalpur dated 14.03.2023 passed in PRC Case No.100/23, which revealed that prior to passing of the order, the learned Trial Court had called for the report of the Forensic Department of the vehicle in question from the concerned I.O. Further, as per the Forensic Science report, there was multiple tampering of the said vehicle and also the five letters/digits were not found in the original chassis and engine numbers. Accordingly, the learned Trial Court had observed that there is possibility of tampering of the engine and chassis numbers. Thus, the learned Trial Court had rejected the prayer for zimma with an observation that "*the chassis number in the registration certificate has no resemblance with the report of Forensic*

*Science Department where they found the number engraved in the vehicle to **MAT****8****5******. Considering the discrepancy, the vehicle in question may be required during trial and the possibility of further tampering with the engine and chassis numbers cannot be ruled out".*

8. Thus, it is seen that the learned Trial Court had committed no error or mistake while passing the impugned Order dated 14.03.2023 passed in PRC Case No.100/23 in connection with Zimma petition No.4297/2022-23. As from the report of the F.S.L., it is seen that there was tampering in the engine and chassis numbers which is reflected in the order. More so, the learned Trial Court is the best Court to deal with the zimma matter as the case has already been charge-sheeted. Accordingly, I find it appropriate not to make any interference in the order passed by the Trial Court and the same stands upheld.

9. In terms of above, this criminal petition stands dismissed.

JUDGE

Comparing Assistant