

GAHC010113682023



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

Case No. : Crl.Rev.P./235/2023

SAMSUL HOQUE
S/O MD. JABED ALI
R/O VILL- NO. 2 KEKANKUCHI,
P.S. MUKALMUA
DIST.NALBARI, ASSAM

VERSUS

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

Advocate for the Petitioner : MR S HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 27-09-2023

Heard Mr. S. Haque, learned counsel for the petitioner and Mr. P. Borthakur, learned Addl. P.P. for the State respondent.

This petition, u/s 397/401/482 Cr.P.C read with Section 482 Cr.P.C. and Article 227 of the Constitution of India is preferred against the order dated 24.4.2023 passed by the learned Judicial Magistrate, Ist Class, Kamrup (M) in Guwahati GRPS Case No. 153/2022.

It is to be noted herein that vide impugned order dated 24.4.2023, the learned Court below has dismissed the petition filed by the petitioner Samsul Hoque seeking custody of a motor cycle, bearing registration No. AS-14N-6925, which was seized in connection with this case.

It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by ASI

K. Gogoi of Guwahati GRPS on 5.11.2022

Mr. Haque, learned counsel for the petitioner submits that the petitioner is a registered owner of the motor cycle, bearing registration No. AS-14N-6925, and Annexure-I is the registration certificate which is enclosed with the petition, and that the vehicle was seized in connection with GRPS Case No.

153/2022, on 9.11.2022, and since then the vehicle was lying in the GRPS campus and the learned Court below has dismissed the petition on the ground that the it has no jurisdiction to grant zimma of the vehicle u/s 457 Cr.P.C. since the vehicle is produced before the Court. Mr. Haque, learned counsel further submits that since the petitioner is a registered owner of the vehicle and the learned Court below also stated in the impugned order that duty lies with the I.O. to release or not to release seized vehicle to the zimma of the petitioner, and therefore, it is contended to allow this petition.

On the other hand, Mr. Borthakur, learned Addl. P.P. has produced a report from the I.O. concerned and submits that the motor cycle bearing registration No.AS-14N-6925, is no more required for the purpose of investigation of the case.

Having heard the submission of learned Advocates of both sides and also considering the materials placed on record specially, the report of I.O. dated 24.9.2023, this Court is of the view that the seized motor cycle, since it is not required in the interest of investigation, may be released in the interim custody of the petitioner. Accordingly, it is provided that on execution of a bond of Rs. 1,50,000/-, the same shall be released in favour of the petitioner on the condition that he shall produce the same before the Court whenever directed and shall not dispose of the same without permission of the Court.

In terms of above, this petition stands disposed of.

JUDGE

Comparing Assistant