

GAHC010123902023



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

Case No. : WP(C)/3412/2023

ALI AKBAR
S/O- LATE AKAT ALI, PERMANENT RESIDENT OF CHAKALAPARA
SONIADI, P.S. HAJO, DIST. KAMRUP, ASSAM AND TEMPORARY ADDRESS-
LALON GAON, P.S. GARCHUK, DIST. KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HOME DEPARTMENT, DISPUR, GUWAHATI-06.

2:THE DEPUTY COMMISSIONER
KAMRUP (M)
DIST. KAMRUP(M)
ASSAM

3:THE DEPUTY COMMISSIONER OF POLICE
KAMRUP(M)
DIST. KAMRUP(M)
ASSAM

4:THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
DIST. KAMRUP(M)
ASSAM

5:THE OFFICER-IN-CHARGE OF BHARALUMUKH POLICE STATION
DIST. KAMRUP(M)
ASSA

Advocate for the Petitioner : MR S HOQUE

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 30.06.2023

Heard Mr. S. Hoque, learned counsel for the petitioner as well as Mr. K. Gogoi, learned Addl. Senior Govt. Advocate for the respondents.

2. Aggrieved by the sealing of the dump of the petitioner in connection with Bharalumukh P.S. case no.363/2022 under section 379 IPC, the present writ petition has been filed under Article 226 of the Constitution of India.

3. Notice of motion was issued on 16.06.2023 and the learned Govt. Advocate had taken time to take instructions.

4. At the outset, the Addl. learned Senior Govt. Advocate has produced a copy of the instructions dated 28.06.2023 to the office of the Deputy Commissioner of Police, West Guwahati Police district informing the learned Addl. Senior Govt. Advocate that the dump was being used to disassemble motor parts of stolen two wheelers and it is projected that on the date when the dump of the petitioner was inspected, not only four number plates of stolen motor vehicles were found, but several other disassembled vehicle parts were found in the stolen dump. Accordingly, in the Investigating agencies have serious suspicion that the said dump was a hub for disassembling motor parts of the stolen vehicles. It is also reflected that on a raid carried out in the house of

another accused, tool kits used for breaking the locks of vehicles and key suspected to be used for stealing two-wheelers were used. It appears from the said communication that the police suspects the petitioner to be involved in various vehicle thefts in and around Guwahati city.

5. Referring to the same, the learned Addl. Senior Govt. Advocate has submitted that the dump was preserved to examine the items stored therein for the purpose of investigation so as to prevent the petitioner from tampering the evidence and therefore, the sealing was done only in the greater interest of investigation. It is also submitted that the petitioner herein was evading arrest and could not be apprehended till date.

6. It is further submitted that the appropriate authorities have already been requested vide letter under memo no.DCP/WGPD/C/2363 dated 23.06.2023 for de-sealing of the dump of the petitioner as the inspection has been carried out. Accordingly, it is submitted that as request has already been made to the competent authority vide letter dated 23.06.2023, the de-sealing process must have been done by now.

7. Accordingly, it is provided that in the event the de-sealing of the dump of the petitioner has not been done till date, the respondent no.2 would take necessary steps to de-seal the dump of the petitioner in terms of request memo dated 23.06.2023 from the Deputy Commissioner of Police, West Guwahati Police district, Assam which shall be done within a period of 2(two) weeks from the date of receipt of the certified copy of the order from the petitioner.

8. Nothing contained in the order should be read as if the Court has stayed the investigation of alleged involvement of the petitioner for using the dump for storing and disassembling motor parts of stolen vehicles, and therefore, this order shall not be an impediment for investigating the alleged crime.

9. The writ petition stands allowed to the extend as indicated above.

JUDGE

Comparing Assistant