

GAHC010166802023



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

**Case No. : Crl.Pet./773/2023**

PRANATI BORA BARUAH  
D/O LATE GOKUL CHANDRA BORA  
R/O HARI CHARAN DAS PATH,  
H. NO. 76, BISHNUNAGAR, LOKHRA,P.S. BASISTHA, GUWAHATI-34,  
KAMRUP (M), REP. BY HER POWER OF ATTORNEY SRI SATISH BARMAN,  
S/O SRI NAREN BARMAN  
R/O CHAPLEKUCHI, NALBARI-40.

VERSUS

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

2:SRI JITEN GOGOI  
ASSISTANT SUB INSPECTOR OF POLICE  
INFORMANT  
IC LAHORIJAN PP  
P.S. DILAI  
KARBI ANGLONG  
PIN NO. 78246

**Advocate for the Petitioner : MR. P K SARMA**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE  
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**Date : 17-08-2023**

1. Heard Mr. P. K. Sarma, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State of Assam.

2. The application of the petitioner praying for zimma of the seized mobile **VIVO V 21 (5G)** bearing IMEI No. 869141056500962 having SIM of reliance Jio prepaid No. 7002239290 and BSNL connection No. 9435200021 and **IPHONE 13 PRO MAX 256 GB** bearing IMEI No. 352990488028008 having SIM of Airtel prepaid connection No. 8133090809 in connection with Dillai Police Station Case No. 38/2023 under Section 379/411/414/34 IPC read with Section 53(1)(a)/63 of the Assam Excise Act 2000 was rejected by the learned Judicial Magistrate 1<sup>st</sup> Class, Bokajan, Karbi Anglong, Assam vide order dated 28.06.2023. The said order has been assailed in the present criminal petition.

3. From the records, it is clear that the Investigating Officer is not in requirements of the seized materials in terms of the report dated 19.06.2023 (Annexure-C). However, in the meantime, during the pendency of this criminal petition, the Charge-Sheet has already been filed the charge-sheet in connection with aforesaid case and the seized materials have been deposited before the learned trial Court below.

4. In view of the aforesaid report and the factual background,

this Court is of the opinion that the no purpose shall be served keeping the custody of the seized materials during the course of the trial.

5. In view of the above, it is directed that the learned trial Court i.e. Judicial Magistrate 1<sup>st</sup> Class, Bokajan, Karbi Anglong, Assam shall forthwith release and handover the zimma of the seized mobile **VIVO V 21 (5G)** bearing IMEI No. 869141056500962 having SIM of reliance Jio prepaid No. 7002239290 and BSNL connection No. 9435200021 and **IPHONE 13 PRO MAX 256 GB** bearing IMEI No. 352990488028008 having SIM of Airtel prepaid connection No. 8133090809 in connection with Dillai Police Station Case No. 38/2023 under Section 379/411/414/34 IPC read with Section 53(1)(a)/63 of the Assam Excise Act 2000 to the registered owner, after getting a bond of Rs. 30,000/- (Thirty thousand) executed from the petitioner for the said vehicle with conditions that:

a) The petitioner/ registered owner of the mobile shall not change the colour and shall not change the structure of the mobile till disposal of the case.

b) The petitioner/registered owner of the mobile shall produce the mobile before the learned trial Court below as and when called for the purpose of trial.

c) The learned trial Court is further directed to take photographs of the seized mobile handset and keep it with the case record for further reference.

6. The learned trial Court may add any other condition as it thinks fit at the time of giving zimma of mobile handset to the petitioner/registered owner.

7. Accordingly, the impugned order dated 28.06.2023 passed by the learned Judicial Magistrate 1<sup>st</sup> Class, Bokajan, Karbi Anglong, Assam in connection with Dillai Police Station Case No. 38/2023 under Section 379/411/414/34 IPC read with Section 53(1)(a)/63 of the Assam Excise Act 2000 is set aside and quashed.

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

**JUDGE**

**Comparing Assistant**