

GAHC010192872021



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

Case No. : Crl.Pet./672/2021

ABDUL KADER
S/O NUR MOHAMMAD
VILL- KOREYA PAHAR
P.O. JOGIGHOPA
P.S. JOGIGHOPA
DIST. BONGAIGAON,
PIN-783382
PROPRIETOR M/S S.K.MINARALS

VERSUS

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

2:SRI PRADIP RABHA
A.S.I. OF POLICE

S/OLATE RANJIT CH. RABHA
ASI OF ABHAYAPPURI POLICE STATION
DIST. BONGAIGAON
PIN-78338

Advocate for the Petitioner : MR. A ROSHID

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 09.06.2023

Heard Mr A Roshid, learned counsel for the petitioner and Mr P Borthakur, learned Additional Public Prosecutor for the State of Assam. Also perused the Case Diary.

2. This is an application filed by the petitioner, Abdul Kader, under Sections 482/397/401 CrPC, praying for quashing of the impugned order dated 23.02.2021, passed in Abhayapuri PS Case No. 97/2021, by the learned SDJM (M), Abhayapuri, rejecting the zimma petition of the petitioner.

3. The brief facts of the case is that on a secret information received, one ASI of North Salmara intercepted and seized three trucks loaded with coal coming from Jogighopa side towards West Bengal, without proper documents and brought them to the Police outpost.

4. It is submitted by the learned counsel for the petitioner that the petitioner is a reputed businessman by profession and he deals in coal and other related goods. The petitioner purchases goods/coal from Assam, Meghalaya, Nagaland and sells/transport the same to other states by his registered firm, namely, M/s S K Minarals, Jogighopa, Bongaigaon. It is also submitted that he has all the documents in support of the coal which have been seized by the Police, along with the trucks.

5. It is further submitted that the three trucks which were hired by the petitioner for transporting the aforesaid coal have been released to its owner, however the coal are still lying in the North Salmara Police Station compound in open sun, rain and air and the coal are getting damaged day by day, which has caused huge loss to the petitioner. Hence, the petitioner has preferred this petition for early release of the coal.

5. On the other hand, the learned Additional Public Prosecutor submits that there are sufficient incriminating materials available in the Case Diary that the petitioner is

running a fake business firm, by which he sells/transportes the coal and other related goods in an illegal manner.

6. I have considered the submissions made by the learned counsel for both the parties. I have also gone through the documents which are available in the record.

7. On a query made by this Court whether the charge sheet has been submitted, the learned Additional Public Prosecutor replied that from the Case Diary received, it could not be ascertained as to whether the charge sheet has been submitted or not.

11. In view of the above, this criminal petition stands disposed of with a direction to the petitioner to appear before the learned trial Court, along with all the relevant documents in support of the seized coal, against which he has supportive documents and the learned trial Court shall consider the prayer of zimma of the seized coal on proper verification of the documents and as per provision of law.

JUDGE

Comparing Assistant