

GAHC010196942023



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

Case No. : Crl.Pet./952/2023

SAFIKUL ALI
S/O KERAMOT ALI
R/O VILL- BHAGAMUR (PART)
P.S. SAMAGURI
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

12.09.2023

Heard Mr. T. Chutia, learned counsel for the petitioner and Mr. P. Borthakur, learned Addl. P.P. for the State respondent.

2. Correctness or otherwise of the order dated 23.11.2022, passed by the learned Addl. CJM, Nagaon in Rupahihat PS Case No. 281/2022, is challenged in this petition, under Section 482 of the Cr.P.C.

3. It is to be noted here that vide impugned order dated 23.11.2022, the learned court below has dismissed the prayer of the petitioner to modify the conditions imposed in the order dated 07.10.2022, while granting zimma of the seized vehicle bearing registration No. AS-02-CC-2740 to the petitioner.

4. It is also to be noted here that the learned court below has directed the petitioner to furnish a bank guarantee of Rs. 15,00,000/- and on being unable to comply with the aforesaid conditions, the petitioner HAD filed a petition before the learned court below to modify the condition, so imposed by the order dated 07.10.2022. But, the learned court below has dismissed the same, as the court below has passed the final order and as such, no power to review the same is available.

5. Mr. Chutia, learned counsel for the petitioner submits that the petitioner is not in a position to furnish the bank guarantee of Rs. 15,00,000/- as the said amount has to be deposited with the bank and only then the bank will issue the guarantee and because of the conditions, the vehicle is lying in the PS campus, since 09.08.2022, and therefore, it is contended to modify the condition, so imposed by the learned court below.

6. On the other hand, Mr. Borthakur, learned Addl. P.P. submits that since the petitioner is not in a position to furnish the bank guarantee, the condition, so imposed by the learned court below may be modified suitably.

7. Having heard the submissions of learned counsel for both the parties, I have carefully gone the petition and the documents placed on record and also perused the order dated 23.11.2022.

8. The record reveals that the learned court below has directed the petitioner to furnish bank guarantee of Rs. 15,00,000/-, while releasing the vehicle, bearing registration No. AS-02-CC-2740, in the custody of the petitioner.

But, the petitioner could not furnish the aforesaid amount of bank guarantee. The learned court below also dismissed his prayer for modification of the said condition, on the ground that the final order has already been passed on 07.10.2022, and the learned court below has no power to review the order.

9. Having considered the submissions of learned counsel for both the parties and also considering the facts and circumstances on the record, and in the interest of justice it is provided that on furnishing indemnity bond of Rs. 15,00,000/- to the satisfaction of the learned court below, the aforementioned vehicle, bearing registration No. AS-02-CC-2740, shall be released in the custody to the petitioner.

10. In terms of above, this Criminal Petition stands disposed of, at this motion stage itself.

JUDGE

Comparing Assistant