

GAHC010197112023



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

Case No. : Crl.Pet./944/2023

SAJIDUR ROHMAN
S/O ABBAS ALI
R/O SALMORATUP, P.O. MORANGI, ABHOLPURIA GAON,
P.S. AND DIST. GOLAGHAT, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

17.10.2023

Heard Mr. K. Boruah, learned counsel for the petitioner and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. In this petition, under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973, the petitioner, namely, Sajidur Rohman, has put to challenge the order dated 26.07.2023 passed by the learned Special Judge, Golaghat, in Special (NDPS) Case No.02/2023, under Section 21(C)/29 of the NDPS Act. It is to be noted here that vide impugned order dated 26.07.2023, the learned Court below has dismissed the petition filed by the petitioner seeking custody of the vehicle, bearing Registration No.AS-01AV-6600 (TATA Safari).

3. Mr. Boruah, learned counsel for the petitioner submits that the vehicle was seized by police on 24.12.2022 and that the petitioner is the registered owner of the said vehicle and that the petitioner has filed an application before the learned Special Judge, Golaghat, being Petition No.1011/2023. But the learned Court below after hearing learned Advocates of both the parties, has dismissed the same in view of the objection raised by the learned Special P.P. It is also to be noted here that the impugned order dated 26.07.2023 indicates that the learned Special P.P. has raised objection in releasing the vehicle in the custody of the petitioner as 40 nos. of soap boxes containing semi brown colour powder, which were suspected to be heroin, recovered from the possession of one Sahidur Rahman, Mahammad Ali, Saddam Ali and Md. Arifur Rahman, who had carried the same in the TATA Safari vehicle, bearing Registration No.AS-01AV-6600 and the same was kept concealed in a hidden chamber of the rear body of the vehicle and that the said vehicle is liable to be confiscation, under Section 60(3) and 63 of the NDPS Act.

4. Mr. Boruah, learned counsel for the petitioner submits that the case has already been charge-sheeted by police, but the present petitioner has not been forwarded by police though stand trial in the Court and that he will produce the vehicle before the Court as and when directed.

5. It is to be mentioned here that though after the trial, the vehicle is liable to be confiscation under Section 60(3) and 63 of the NDPS Act, yet, there is no bar in releasing the vehicle in the interim custody. The petitioner has also assured to produce the vehicle before the Court below as and when required. Therefore, this Court is inclined to allow

this petition. And accordingly, it is provided that on furnishing an indemnity bond of ₹ 8,00,000/-, the seized vehicle bearing Registration No.AS-01AV-6600, be released in the interim custody of the petitioner on the condition that he shall produce the vehicle before the learned Court below as and when directed and shall not alienate or change its colour or modify the same without prior permission of the Court.

6. In terms of above, this criminal petition stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant