

GAHC010201322023



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

**Case No. : Crl.Pet./957/2023**

SAMUD HASAN  
S/O HAZI MASROOR  
PERMANENT RESIDENT OF VILL- 38, SAMBHAL ROAD, NEAR TALAB  
WALI MASJID, DINGARPUR, MORADABAD, BILARI, P.S. MAINATHER,  
DIST. MORADABAD (UTTAR PRADESH)  
TEMPORARY ADDRESS-BANI SACHENDI, KANPUR, UTTAR PRADESH.

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. M AHMED**

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

**BEFORE**  
**HON'BLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**27.09.2023**

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

2. By this criminal petition under Section 482 read with Section 397 and 401 of the Code of Criminal Procedure, 1973, the petitioner, namely, Samud Hasan has challenged the order dated 12.01.2021, passed by the learned Sub-Divisional Judicial Magistrate (S), Barpeta, in Howly P.S. Case No.481/2020. It is to be noted here that vide impugned order dated 12.01.2021, the learned Court below has dismissed the petition filed by the petitioner seeking custody of a vehicle, bearing Registration No.UP-78CN-2725, which has been seized in connection with Howly P.S. Case No.481/2020 and also challenged the judgment and order dated 28.02.2023, passed by the learned Sessions Judge, Barpeta, in Criminal Revision Petition No.09/2022, by which the learned Sessions Judge, Barpeta, has upheld the order passed by the learned S.D.J.M(S), Barpeta.

3. Mr. Laskar, learned counsel for the petitioner submits that in connection with Howly P.S. Case No.481/2020, the vehicle of the petitioner bearing Registration No.UP-78CN-2725 was seized. Thereafter, the petitioner has preferred one zimma petition before the learned S.D.J.M.(S), Barpeta, vide Petition No.4309/2020, under Section 451 and 457 of the Code of Criminal Procedure, 1973. But, the learned Court below has dismissed the petition and against the dismissal order, the petitioner has preferred one Criminal Revision Petition before the learned Sessions Judge, Barpeta and vide judgment and order dated 28.02.2023 in Criminal Revision Petition No.09/2022, the learned Sessions Judge, Barpeta has also dismissed the revision petition, and thereby, upheld the order passed by the learned S.D.J.M.(S), Barpeta.

4. Referring to Annexure-V at page 40 of the petition, Mr. Laskar submits that Annexure-V is a report submitted by the Officer-in-Charge of Howly P.S., wherein it is stated that seized bulls and the vehicle may be given in the zimma of the actual owner and the present petitioner is the registered owner of the vehicle and the Registration Certificate of the vehicle is enclosed as Annexure-II at page 27 of the petition and as such, the impugned judgments and orders passed by the learned Courts below failed to withstand the legal scrutiny and therefore, it is contended to allow the petition.

5. Whereas, Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, submits

that he may be allowed some time to obtain a report from the I.O. concerned. But, while the report of the I.O. at Annexure-V at page 40 of the petition is brought to the notice of Mr. Borthakur, he submits that in view of the said report, the vehicle may be released in the custody of the registered owner.

6. Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record. Also perused the impugned judgment and orders of the learned Courts below.

7. It appears from Annexure-II of the petition that the petitioner is the registered owner of the aforesaid vehicle and this Annexure-II has not been disputed by Mr. Borthakur, learned Additional P.P. It also appears from Annexure-V of the petition that the aforesaid vehicle is not required for the purpose of further investigation and therefore, the I.O., vide his report dated 04.01.2021, submitted to the Additional Chief Judicial Magistrate, Barpeta, that the vehicle may be released in the zimma of the actual owner.

8. In view of the report annexed at Annexure-V and the Registration Certificate annexed at Annexure-II of the petition, this Court is of the view that the seized vehicle is not required for the purpose of investigation and as such, no purpose will be served by keeping the same in the police station. The aforesaid vehicle was seized on 25.11.2020 and since then it has been lying unattended in the P.S. campus and exposing in the sun and rain and the value of the same is diminished day by day. The learned Courts below have failed to consider these aspect in the impugned judgment and orders and as such, the same failed to withstand the legal scrutiny and accordingly, the same stands set aside and quashed.

9. Under the aforesaid facts and circumstances, this Court is inclined to allow this petition. It is provided that on his executing a bond of Rs.8,00,000/- in favour of the learned Court below, the vehicle bearing Registration No.UP-78CN-2725 shall be released in the interim custody of the petitioner, subject to the following conditions:-

(i) The petitioner shall produce the aforesaid vehicle before the learned Court below

as and when directed.

(ii) The petitioner shall not dispose of or change the colour of the vehicle without prior permission of the Court.

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

**Sd/- *Robin Phukan***  
**JUDGE**

**Comparing Assistant**