

GAHC010204832023



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

Case No. : Crl.Rev.P./383/2023

SAFIQUL ISLAM
S/O OSMAN ALI
R/O VILL- TOPATOLI (PART)
P.S. SONAPUR
DIST. KAMRUP (M), 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
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

15.09.2023

Heard Mr T Chutia, learned counsel for the petitioner and Ms A Begum, learned Additional Public Prosecutor, Assam.

The petitioner has filed this application under Sections 397/401, read with Section 482 CrPC, challenging the order dated 22.08.2023, passed by the learned JMFC,

Kamrup (Metro), in connection with Sonapur PS Case No. 143/2023, under Sections 379/411/34 IPC, read with Sections 11(a) (b) (d) of the Prevention of Cruelty to Animals Act, read with Section 13 (1) of the Assam Cattle Preservation Act. .

The petitioner's vehicle was seized by the investigating agency in connection with Sonapur PS Case No. 143/2023, registered under Sections 379/411/34 IPC, read with Section 11 (a) (b) (d) of Prevention of Cruelty to Animals Act, and Section 13 (1) of the Assam Cattle Preservation (Amendment) Act, 2021. The allegation was that the petitioner's vehicle was seized while transporting 33 cows which were recovered by the Police after intercepting the vehicle, bearing Registration No. AS-26C-8927, proceeding from Jorhat towards Byrnihat. The vehicle was intercepted at Sonapur Digaru Traffic Point. Vide order dated 22.08.2023, the learned JMFC, Kamrup (Metro) has directed the vehicle to be handed over to the registered owner after verifying the documents under the condition that the registered owner furnishes a bank guarantee equal to the value of the vehicle. The petitioner has challenged the order dated 22.08.2023, stating the petitioner is unable to provide bank guarantee equal to the value of the vehicle. The petitioner has prayed for modification of the order to the extent of furnishing of bank guarantee. The petitioner is willing to furnish any other guarantee apart from bank guarantee.

The learned Additional Public Prosecutor has raised objection against the prayer of the petitioner.

The petitioner has also prayed for modification of the order, on the grounds of parity. The petitioner has referred to the orders of this Court dated 23.08.2023, in connection with Criminal Revision Petition No. 330 of 2023, order dated 12.05.2022, in connection with Criminal Revision Petition No. 208/2022 and order dated 10.11.2022, in connection with Criminal Revision No. 477/2022. The petitioner has submitted that the value of his vehicle tantamounts to Rs. 15,00,000/- (Rupees Fifteen Lacs Only).

Considering the submissions at the bar with circumspection, instead of furnishing

bank guarantee for zimma of the vehicle bearing Registration No. AS-26C-8927, the petitioner is directed to execute a bond of Rs. 15,00,000/- (Rupees Fifteen Lacs Only) with a solvent surety of the like amount The other terms and conditions of zimma of vehicle will remain the same as the order dated 22.08.2023.

In view of the above observations, this petition stands disposed of.

JUDGE

Comparing Assistant