

GAHC010210032023



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

Case No. : Crl.Pet./1010/2023

ABDUL BACHI
S/O MD. ORAMUJADDIN
R/O VILL- RAJABARI GRANT BAGAN
P.S. DEMOW
DIST. SIVASAGAR, 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 MR. JUSTICE ROBIN PHUKAN

ORDER

29.09.2023

Heard Mr. T. Chutia, learned counsel for the petitioner and also heard Mr. K.K. Parasar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. In this petition, under Section 482 read with Section 397/401 of the Code of

Criminal Procedure, 1973, the petitioner, namely, Abdul Bachi, has prayed for modification of the order dated 16.11.2022 passed by the learned Chief Judicial Magistrate, Sivsagar, in Sivsagar P.S. Case No.368/2022. It is to be noted here that vide impugned order dated 16.11.2022, the learned Court below has allowed the petitioner to take custody of the vehicle, bearing Registration No.AS-04BC-7034, on the condition that the petitioner has to furnish a bank guarantee, equivalent to the present market value of the vehicle, to the satisfaction of the I.O.

3. Mr. Chutia, learned counsel for the petitioner submits that the petitioner has purchased the seized vehicle on hire purchase from Cholamandalam Investment & Finance Company and at the price of ₹ 15,00,000/-, and he has to pay EMI @ ₹ 15,115/- per month, and that he is not in a position to furnish bank guarantee of ₹ 15,00,000/- and therefore, the petitioner approached this Court for modification of the aforesaid condition, so imposed by the learned Chief Judicial Magistrate, Sivsagar. Mr. Chutia further submits that the petitioner had filed one additional affidavit showing his inability to furnish the bank guarantee.

4. On the other hand, Mr. K.K. Parasar, learned Additional Public Prosecutor, Assam, submits that the condition was imposed by the learned Court below in accordance with law and as such, no modification is called for.

5. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the impugned order dated 16.11.2022.

6. It appears that the vehicle, bearing Registration No.AS-04BC-7034 was seized by police in connection with Sivsagar P.S. Case No.368/2022, and thereafter, the petitioner had preferred an application before the learned Court below seeking custody of the vehicle, and the learned Court below had allowed the petition and directed the petitioner to furnish bank guarantee, equivalent to the present market value of the vehicle, to the satisfaction of the I.O. But, it appears from the affidavit submitted by the petitioner that he purchased the vehicle on hire purchase from Cholamandalam Investment & Finance

Company and he has to pay monthly EMI @ ₹ 15,115/- and he is not in a position to furnish the bank guarantee of ₹ 15,00,000/-.

7. Having considered above, and also considering the facts and circumstances on the record, this Court is inclined to modify the condition, so imposed by the learned Court below. And accordingly, it is provided that instead of furnishing bank guarantee of ₹ 15,00,000/-, the petitioner has to furnish one Indemnity Bond of ₹ 15,00,000/- to the satisfaction of the Investigating Officer.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant