

GAHC010212342023



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

Case No. : Crl.Rev.P./415/2023

GOLAP HUSSAIN
S/O FATIK MIYA
C/O AJAY KR. MAHATO
27A, KUNDIL NAGAR, BASISTHA CHARIALI
GUWAHATI-781029, DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE PP, ASSAM

2:SRI PALASH PROTIM GOGOI
SUB INSPECTOR

DOOLAHAT P.S. OUT POST
DOOLAHAT
DIST.LAKHIMPUR
ASSA

Advocate for the Petitioner : MR G PHUKAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

14.12.2023

Heard Mr. G. Phukan, learned counsel for the petitioner.

This application under Section 397/401 read with Section 482 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, Golap Hussain, impugning the order dated 11.09.2023, passed by the learned Additional Chief Judicial Magistrate, Lakhimpur, whereby, the prayer for Zimma filed by the present petitioner of a vehicle bearing Registration No. AS01PC2157 was rejected by the learned Trial Court.

Learned counsel for the petitioner has submitted that the present petitioner is the registered owner of the vehicle which was seized in connection with this case and the same is lying in the Police Station since the date of the seizure and though the prayer for Zimma was rejected by the learned Trial Court, the retention of the said vehicle may no longer be required for the investigation. Hence, the prayer for Zimma of the said seized vehicle has been made.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Laluk P.S. Case No. 170/2023 and has submitted that according to the endorsement of the Investigating Officer in the case diary, it appears that the seized vehicle bearing Registration No. AS01PC2157 is lying in the Police Station Campus and it could not be given in Zimma to anyone else as neither the petitioner nor anybody else has appeared before the Investigating Officer seeking Zimma.

Learned Additional Public Prosecutor has submitted that the investigation has otherwise progressed, however, the statement of the present petitioner has not yet been recorded.

I have perused the case diary and has considered the submissions made by learned counsel for both the sides. The Hon'ble Apex Court has observed in "***Sunderbhai Ambala Desai Vs. State of Gujarat***" reported in **(2002) 10**

SCC 283 as follows:-

"17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

18. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by a third person, then such vehicle may be ordered to be auctioned by the court. If the said vehicle is insured with the insurance company then the insurance company be informed by the court to take possession of the vehicle which is not claimed by the owner or a third person. If the insurance company fails to take possession, the vehicles may be sold as per the direction of the court. The court would pass such order within a period of six months from the date of production of the said vehicle before the court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared."

It also appears from the case diary that investigation has otherwise fairly progressed and retention of the vehicle under open sky does not appear to be necessary for completion of fair investigation of Laluk P.S. Case No. 170/2023. Hence, the Investigating Officer of Laluk P.S. Case No. 170/2023 is hereby directed to give the Zimma of the seized vehicle, i.e. vehicle bearing Registration No. AS01PC2157 to the present petitioner on his furnishing a bond of Rs. 20,00,000 (Rupees Twenty Lakhs).

It is also directed that at the time of furnishing the bond by the petitioner the Investigating Officer shall prepare a detailed punchnama/inventory of the seized vehicle and shall take photographs of the said vehicle from various angles and shall keep the same in the record of the Laluk P.S. Case No. 170/2023.

With the above observations, this Criminal Revision Petition is hereby disposed of.

Send back the case diary.

JUDGE

Comparing Assistant