

GAHC010219402023



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

Case No. : Crl.Pet./1053/2023

RAJIV B RANJAN @ RAJIV RANJAN SINGH
S/O BRIJ KISHORE RANJAN
R/O VILL- FLAT NO. 303, SAMPRAN COMPLEX, SHANTI NAGAR,
P.S. KADODARA
DIST. SURAT GUJARAT

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

09.10.2023

Heard Mr. T. Chutia, learned counsel for the petitioner and Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

2. In this petition, under Section 482 of the Cr.P.C., the petitioner namely, Rajiv B. Ranjan @ Rajiv Ranjan Singh has put to challenge the

correctness or otherwise of the order dated 22.07.2022, passed by the learned Chief Judicial Magistrate, Dhemaji in connection with Dhemaji PS Case No. 102/2022, under Sections 397/411 of the IPC read with Section 13[1] of the Assam Cattle Preservation Act.

3. It is to be noted here that vide order dated 22.07.2022, the learned court below has allowed the petition filed by the petitioner, seeking custody of the Truck, bearing registration No. GJ-26-T-7218, on the condition that the petitioner has to furnish bank guarantee of Rs. 30,00,000/- before taking custody of the seized vehicle. It is also to be noted here that the aforesaid vehicle was seized by the police, in connection with Dhemaji PS Case No. 102/2022, under Sections 397/411 of the IPC read with Section 13[1] of the Assam Cattle Preservation Act and the said case was registered on the basis of one FIR lodged by one Chandra Bora, on 09.06.2022.

4. Mr. Chutia, learned counsel for the petitioner submits that the petitioner is the registered owner of the vehicle and in support of the contention Mr. Chutia refers to the registration certificate of the vehicle [Annexure – 3]. Mr. Chutia further submits that the vehicle is seized in connection with Dhemaji PS Case No. 102/2022, under Sections 397/411 of the IPC read with Section 13[1] of the Assam Cattle Preservation Act and thereafter, the petitioner has preferred one petition before the learned CJM, Dhemaji and vide order dated 22.07.2022, the learned court below has allowed the petitioner to take custody of the aforesaid seized vehicle, on furnishing bank guarantee of Rs. 30,00,000/-. Mr. Chutia also submits that the petitioner took the vehicle on hire purchase from TATA Motors Finance Limited and he has to pay monthly installment @ Rs. 72,372/- and in support of the same Mr. Chutia has referred to Annexure – A of the Additional Affidavit and submits that the petitioner is not in a position to

furnish bank guarantee of Rs. 30,00,000/-, as ordered by the learned court below and therefore, it is contended to modify the aforesaid condition, so as to enable the petitioner to take custody of the vehicle.

5. On the other hand, Mr. Borthakur, learned Addl. P.P. submits that vide order dated 22.07.2022, the learned court below has imposed the condition in accordance with law and therefore, no interference of this Court is required.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition and the documents placed on record.

7. It appears that the vehicle was seized on 09.06.2022, and since then the vehicle is lying in the police campus. Further, it appears that the petitioner has approached the learned CJM, Dhemaji by filing a petition seeking custody of the vehicle and vide order dated 22.07.2022, the learned court below has allowed the petition and directed to release the seized the vehicle in the custody of the petitioner, on furnishing bank guarantee of Rs. 30,00,000/-. But, it appears from the additional affidavit, specially from the Annexure – A, that the petitioner has purchased the said vehicle on hire purchase from TATA Motors Finance Limited and the petitioner has to be pay installment @ Rs. 72,372/- per month and as such, he is not in a position to furnish bank guarantee of Rs. 30,00,000/-, so as to get the vehicle in his custody.

8. Having considered the submission of learned counsel for the petitioner and also considering the facts and circumstances, this Court is of the view that the end of justice will be made out if the aforesaid condition is modified to the extent that instead of bank guarantee of Rs. 30,00,000/- the petitioner shall furnish indemnity bond of Rs. 30,00,000/-.

9. Accordingly, it is provided that on furnishing an indemnity bond of

Rs. 30,00,000/- to the satisfaction of the learned CJM, Dhemaji, the vehicle shall be released in the custody of the petitioner.

10. In terms of above, this Criminal Petition stands disposed of.

JUDGE

Comparing Assistant