

GAHC010219462023



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

Case No. : Crl.Pet./1056/2023

SADDAM KHAN @ SADDAM HUSSAIN KHAN
S/O MD. JAFRULLAH KHAN
R/O VILL- VISHUNPURA
P.S. EAST CHAMPARAN
DIST. TURKAULIA, BIHAR

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

Date : 12-10-2023

Heard Mr. T. Chutia, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Addl. P. P. for the State respondent.

In this petition u/s 482 Cr.P.C, the petitioner has put to challenge the order dated 24.7.2023, passed by learned Sessions Judge, Sivasagar in Sessions Case No. 68(S-S) of 2023, arising out of Demow P. S. Case No. 10/2023.

It is to be noted here that vide impugned order dated 24.7.2023, the learned Sessions Judge, Sivasagar has directed that the seized TATA LP Truck, bearing registration No. AS-01-EC-9672, shall be released

in the custody of the petitioner on his furnishing bank guarantee of Rs.2,00,000/- and by imposing some other conditions upon the petitioner.

Mr. Chutia, learned counsel for the petitioner submits that in view of order dated 29.9.2023, he has submitted an additional affidavit herein this petition, showing that the petitioner is not in a position to furnish bank guarantee of Rs.2,00,000/- and that the petitioner had purchased the said vehicle by obtaining loan from Indus In Bank Limited and he has to pay EMI @ 31,750/- per month and as such, he is not in a position to furnish Bank guarantee, as directed by the learned Court below. Therefore Mr.Chutia submits that the impugned order, so far it relates to the bank guarantee of Rs. 2,00,000/- is concerned, may be modified suitably, so as to enable the petitioner to take custody of the aforesaid vehicle.

Mr. Borthakur, learned Addl. P.P submits that in view of additional affidavit submitted by the petitioner, the condition so imposed by the learned Court below may be modified suitably.

Having heard the submissions of learned Advocates of both sides and I have carefully gone through the petition and documents placed on record and also perused the impugned order dated 24.7.2023 and also the additional affidavit submitted by the petitioner on 3.10.2023.

It appears that while directing the officer-in-charge, Demow P.S. to release the seized TATA LP Truck bearing registration No. AS-01-EC-9672, the learned court below has directed to the petitioner to furnish bank guarantee of Rs. 4,00,000/-. But, it appears from the additional affidavit, especially from Annexure-A. that the petitioner has purchased the vehicle from Indus In bank after taking loan and he has to pay a sum of Rs.31, 750/-per month being the installment of the same.

In view of the above, this Court is considered opinion end of justice will be meted out if the order of the learned Sessions Judge dated, Sivasagar dated 24.7.2023 is modified to the extent that the officer-in-charge, Demow P.S. shall release the seized vehicle being TATA LP Truck No. AS-01-EC-9672 on furnishing an indemnity bond of Rs/- 2,00,000/-. Accordingly, the impugned order stands modified to the extent indicated above. The other condition so imposed by learned Sessions Judge, Sivasagar will remain the same.

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

JUDGE

Comparing Assistant