

GAHC010221492023



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

Case No. : Crl.Rev.P./431/2023

BITU BANIA
S/O CHANDRA KANTA BANIA
R/O VILL- LINGERIGAON
P.S. BHURAGAON
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. A. MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 18-10-2023

1. Heard Ms. A Medhi, learned counsel for the petitioner. Also heard Mr. R J Baruah, learned Addl. PP, Assam.
2. The present application is filed under section 397/401 Cr.P.C read with section 482 Cr.P.C praying for modification of the impugned order dated 22.08.2023 passed 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, 1960 read with section 13(1) of the Assam Cattle Preservation (Amendment) Act, 2021 by the learned Judicial Magistrate First Class, Kamrup (Metro), Guwahati allowing the prayer of the petitioner for giving custody/zimma of the vehicles bearing registration No.NL 01 AC 5287 with a condition to furnish a bank guarantee equal to the value of the vehicle.

3. By the impugned order dated 22.08.2023, the learned Court below had directed the IO to give Zimma of the vehicle bearing registration No.NL 01 AC 5287 on his furnishing of bank guarantee equal to the value of the vehicle.

4. The learned APP opposes the said prayer.

5. It is not disclosed from the impugned order dated 22.08.2023 passed by the learned Judicial Magistrate First Class, Kamrup (M) that the vehicle of the petitioner is subjected to any confiscation proceedings, this Court is inclined to take notice of the inability of the petitioner to furnish bank guarantee equal to the sum of the vehicle and hence this Court is inclined to opine that this is an appropriate case to direct the learned Judicial Magistrate First Class, Kamrup (M) not to insist on the furnishing of the bank guarantee equal to the sum of the vehicle as a pre-condition for release of the hereinbefore referred vehicle in zimma to the petitioner.

6. However, in lieu of the bank guarantee, the petitioner shall furnish a personal bond for a sum of Rs.10,00,000.00 lakh along with a bond of a solvent surety as a condition for release of the said

vehicle in zimma to the registered owner subject to the following conditions:

I. The investigating authority shall prepare proper panchnama of the vehicle and take photographs of such vehicle and get the signature of the owner or representative of the owner and the owner shall give a bond that such articles should be produced on issuing a bond of Rs.10,00,000/-.

II. The petitioner/owner shall not change the colour or structure of the vehicle and shall not dispose of the vehicle till disposal of the case.

III. The petitioner/owner shall produce the vehicle before the I/O or concerned authority as and when called for the purpose of investigation or trial.

7. The petitioner is permitted to produce a certified copy of this order before the learned Court of Judicial Magistrate First Class, Kamrup (M).

8. The matter is accordingly disposed of.

JUDGE

Comparing Assistant