

GAHC010244322023



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

Case No. : Crl.Rev.P./470/2023

DINESH KUMAR BASU
PROPRIETOR OF CALCUTTA FISHING HOUSE, S/O LATE SAIENDRA NATH
BASU, HAVING ITS OFFICE AT FISHING TACKLE, 156, BIPIN BEHARI
GANGULI STREET, KOLKATA, PIN-700012, WEST BENGAL

VERSUS

UNION OF INDIA
REPRESENTED BY THE STANDING COUNSEL, NARCOTICS CONTROL
BUREAU

Advocate for the Petitioner : MR. B M CHOUDHURY

Advocate for the Respondent : SC, NCB

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

15.12.2023

Heard Mr B M Choudhury, learned counsel for the petitioner, Sri Dinesh Kumar Basu. Also heard Mr S C Keyal, learned Standing Counsel for NCB.

2. The petitioner has filed this application under Sections 397/401 of the CrPC, challenging the order dated 29.08.2023, passed by the learned Additional Sessions

Judge No. 5, Kamrup (Metro), in connection with NDPS Case No. 324/2022, rejecting the zimma petition preferred by the petitioner with prayer for zimma of Treated Bamboos (i.e. Fishing Rod) worth Rs. 3,11,805/-, Tax Invoice and E-way Bill, which was purchased by the petitioner vide Invoice No. PS/010/2022-23 dated 12/06/2022 and E-way Bill No. 85132970414.

3. The allegation is that on 21.06.2022, at about 11:00 am, the Intelligence Officer of NCB, on a tip off, proceeded to Khanapara and intercepted the truck bearing Registration No. UP-21-BN-4803. Two persons were found in the truck, who admitted that 140 packets of ganja were concealed in the loading area of the truck among the bundles of the bamboo. The NCB team then seized the bamboo along with the contraband. The bamboo rods were seized as these rods were used to conceal the contraband.

4. It is submitted that a consignment was carried by the aforementioned truck and these bamboos were also sent as consignment which were taken alongside. It is apparent that the bamboo rods were not used to conceal the contraband, as the contraband was not concealed amongst the bamboo rods, but it was carried separately along with the consignment carried by the truck.

5. The learned Standing Counsel for NCB has submitted that no instructions have

been received relating to any confiscation procedure of the aforementioned bamboo rods. The learned Standing Counsel has raised objection against the zimma of the seized Fishing Rods.

6. The aforementioned Fishing Rods were seized on 22.06.2022 and till date, no instruction has been received relating to any confiscation proceeding.

7. I have considered the submission that the rods may get damaged if they are kept in a negligent manner. The fishing rods are valuable articles. Confiscation proceeding was not undergoing at that stage when the impugned order was passed.

8. In view of my foregoing discussions, the order dated 29.08.2023, is hereby set aside and the petitioner is allowed to take zimma of the Treated Bamboos (i.e. Fishing Rod) worth Rs. 3,11,805/-, Tax Invoice and E-way Bill, which was purchased by the petitioner vide Invoice No. PS/010/2022-23 dated 12/06/2022 and E-way Bill No. 85132970414, on his execution of a bond of Rs. 3,00,000/- (Rupees Three Lacs), to the satisfaction of the Investigating Officer, with an undertaking to produce the aforementioned seized articles as and when required by the learned trial Court.

9. The Criminal Revision Petition stands disposed of.

JUDGE

Comparing Assistant