

GAHC010246372022



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

Case No. : Crl.Rev.P./565/2022

MANOJ RAJBONGSHI
S/O ARJUN RAJBONGSHI, R/O VILL- SORBHOG, WARD NO. 4, P.O.-
SORBHOG, DIST- BARPETA, PIN-781317, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR G BORDOLOI

Advocate for the Respondent : PP, ASSAM

BEFORE
THE HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY
ORDER

07.08.2023

1. Heard Mr. G Bordoloi, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State of Assam.
2. The application of the petitioner praying for zimma of the seized vehicle

bearing registration No. AS15AC0309 (Tata Magic Express 8 Seater, (Goods Carrier) in connection with Special NDPS Case No. 56(M)/2022 (Manikpur Police Station Case No. 80/2022) was rejected by the learned Special Judge, Bongaigaon vide order dated 19.09.2022.

3. This court is surprised to note that the learned Special Judge has not even given any reason why the zimma cannot be granted. The claim of the petitioner that he is the registered owner of the vehicle and that he had produced document in proof of such contention has even been not discussed.
4. This court is of the view that the learned court is within its power to reject a zimma petition but a judicial order should be supported by reason, however, the impugned order has been passed only on the ground that the vehicle has already been seized on 01.05.2022. There is no dispute on such fact and this is the background fact for which the application for zimma was filed. However, the learned court has not given any other reason why such application cannot be allowed.
5. The Hon'ble Apex Court in the case of Sundarbhai Ambalal Desai vs State of Gujrat reported in (2002) 10 SCC 283 held that the court can pass appropriate order with regard to seized property for proper custody pending conclusion of enquiry or trial. Object of passing such order should be that the owner of the vehicle would not suffer because of the seized property remaining unused or by its miss-appropriation. The court further went on saying that purpose and object for such release is that the material are not get damage. The court further provided that to protect the seized material conditions may be imposed.

6. In view of the aforesaid report, this Court is of the considered opinion that the Investigating Officer shall forthwith release and handover the zimma of the seized vehicle bearing registration No. AS15AC0309 (Tata Magic Express 8 Seater, (Goods Carrier) in connection with Special NDPS Case No. 56(M)/2022 (Manikpur Police Station Case No. 80/2022) to its owner, after getting a bond of Rs. 5,00,000/- (Five lakhs) executed from the owner of the said vehicle with the following conditions:
 - a) The owner shall submit a bond declaring that he shall not change the colour and structure of the vehicle and shall not alter or destroy till disposal of the case.
 - b) The owner shall produce the vehicle before the I/O or concerned authority as and when called for the purpose of investigation.
 - c) The I/O is further directed to take photographs of the seized vehicle and keep it with the case record for further reference.
7. With the aforesaid observation and direction, this criminal petition stands disposed of.

JUDGE

Comparing Assistant