

GAHC030002242023



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

Case No. : Crl.Pet./6/2023

Smt. Lalramthangi
Thuampui, Aizawl, Mizoram

VERSUS

State of Mizoram and Anr.
Aizawl: The Officer-in-Charge
Anti-Narcotics Squad
Commissionerate of Excise and Narcotics
Aizawl

Advocate for the Petitioner : Mr. J H Ramneihmawia

Advocate for the Respondent : Ms. Mary Lalruatkimi Khiangte, Addl. PP, Mizoram

B E F O R E
HON'BLE MRS.JUSTICE MARLI VANKUNG
ORDER

12.05.2023

Heard Mr. J.H. Ramneihmawia, learned counsel for the petitioner along with Ms. Mary L. Khiangte, learned counsel for the State respondents.

This is an application filed under Section 482 Cr.P.C. praying for the release of the Motor Vehicle (Tata Sumo Spacio A1) white colour bearing registration No. MZ01 J 4353.

The learned counsel for the petitioner submits that the vehicle was seized on 26.01.2023 in connection with Excise Case No. N-22/2023 under Section 21(b) ND&PS Act, 1985 when 25 grams of suspected heroin kept in two numbers of soap cases was seized from the said vehicle. The learned counsel for the petitioner submits that the said vehicle has been kept in the District Court Complex since it is seized in the month of January, 2023 and is not being maintained. That the vehicle being an old model vehicle is likely to be exposed to wear and tear if kept idle and exposed to the open air for such a long period without any maintenance and regular start up of the engine. He further submits that he had approached the Judge, Special Court, ND&PS Act, Aizawl for the release of the vehicle on *Zimanama* earlier. However, this was rejected by the learned Special Court vide its Order dated 14.02.2023 finding that there were no sufficient reasons to allow the application at this stage. That the learned Additional Public Prosecutor had strongly objected to the release of the vehicle since the case was at its initial stage and investigation was still going on.

The learned counsel submits that investigation is now over and charge sheet has been submitted against the accused person, he prays that the release of the vehicle to the petitioner at this stage could not in any way hamper or cause any undue influence to the case against the petitioner. In support of his submission, the learned counsel has cited the case of *Ashok Kumar Vs. State of Bihar & Ors.*, reported in (2001) 9 SCC 718.

Ms. Mary L. Khiangte, learned Additional Public Prosecutor for the State respondents submits that the State has no strong objection at this stage since it is seen that charge sheet has been submitted. However, she submits that the release may be subject to sufficient bond so that the vehicle is not sold and will be produced before the Court if and when required.

Having heard the submissions made by both the parties, this Court finds that it will not be necessary to keep the vehicle in the compound of the District Court, where it is subject to wear and tear till the disposal of the case since charge sheet has been submitted. The petitioner will be allowed to take over the custody of the vehicle on zimanama by executing a bond which shall be to the satisfaction of the learned Trial Court and he shall also execute a bond that he shall produce the vehicle either before the Court or any authority if so directed and that he shall not transfer the possession of the vehicle to anyone during the pendency of the case. The petitioner is thus to appear before the learned Judge, Special Court, ND&PS with the certified copy of this order, wherein the learned Special Court will take steps for execution of a bond as per its satisfaction.

Accordingly, Crl.Pet. No. 6/2023 stands allowed and disposed.

JUDGE

Comparing Assistant