

GAHC030004012023



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

Case No. : Crl.Pet./8/2023

Sh. Rohen Lalchhanhima
ITI Veng, Aizawl, Mizoram

VERSUS

State of Mizoram
Aizawl

Advocate for the Petitioner : Mr. Jordan Rohmingthanga

Advocate for the Respondent : P.P./Addl.PP, Mizoram

ORDER

B E F O R E

HON'BLE MRS. JUSTICE MARLI VANKUNG

25.08.2023

Heard Mr. Jordan Rohmingthanga, learned counsel for the petitioner along with Mr. C Zoramchhana, learned Public Prosecutor appearing for the State respondent.

2. The learned counsel for the petitioner submits that the instant petition is filed under Section 482 read with Section 397 & 401 of the Code of Criminal Procedure, 1973 against the Order dated 14.07.2023 passed by the Special Court, ND&PS Act, Aizawl in Crl. Misc Appln. No. 142/2023, in Criminal Trial No. 706/2023 arising out of Kanhmun P.S Case No. 31/2022 u/s 20(b)(ii)(c)/29/25 ND&PS Act, by which the

applicant/petitioner had sought for the release of the vehicle TATA 407SK on 02.12.2021 bearing Registration No. MZ 01 W 5803, belonging to the petitioner on Zimmanama which was duly rejected by the learned Trial Court. The learned counsel submits that even though the Additional Public Prosecutor had not objected to the release of the vehicle since investigation was over and the vehicle was no longer required, the learned Trial Court had rejected the release of the vehicle on the ground that the petitioner being the accused person was in judicial custody and thus, it was not possible for the release of the vehicle.

3. The learned counsel submits that this Court vide its Order dated 16.08.2023 had allowed him to file an additional affidavit to clarify in whose custody the vehicle belonging to the petitioner/accused would be kept if the vehicle was allowed to be released on Zimmanama since the owner is in judicial custody. The learned counsel submits that he has filed an additional affidavit wherein Power of Attorney has been executed by the accused petitioner nominating Mr. J.H Lalchhanhima S/o Vanlaltluanga R/o T-125 College Veng, Aizawl, Mizoram as his lawful Attorney whereby authorizing him to take custody of the vehicle TATA 407SK on 02.12.2021 bearing Registration No. MZ 01 W 5803 and to ply the said vehicle on road on hire basis for the repayment of loan of EMI in relation to loan Account No. 40606524225 in State Bank of India, Aizawl Main Branch. The learned counsel submits that for the above reasons, there is urgency for the release of vehicle on Zimmanama since the loan has to be repaid by the petitioner.

4. Mr. C. Zoramchhana, learned Public Prosecutor submits that in view of the fact that the Additional Public Prosecutor in the Lower Court had raised no objection since investigation is completed and charge-sheet is filed, vehicle is no longer required in Police custody and considering the fact that Power of Attorney in favour of Mr. J.H Lalchhanhima has been executed, he has no objection to the release of the vehicle on Zimmanama. He however submits that a condition may be imposed that the said

vehicle is not disposed of during trial of the case.

5. Having considered the submissions made by the counsel for both the parties, wherein it is seen that the vehicle is no longer required to be kept in Police custody since investigation is complete and charge-sheet submitted, this Court finds it fit to allow the petitioner for release the said vehicle TATA 407SK on 02.12.2021 bearing Registration No. MZ 01 W 5803 to the petitioner on his executing a General Power of Attorney dated 17.08.2023 to Mr. J.H Lalchhanhima S/o Vanlaltluanga R/o T-125 College Veng, Aizawl, Mizoram as his lawful Attorney whereby authorizing him to take custody of the vehicle TATA 407SK on 02.12.2021 bearing Registration No. MZ 01 W 5803, under the condition that the said vehicle should not be disposed of in anyway before the disposal of the Criminal Trial No. 706/2023 arising out of Kanhmun P.S Case No. 31/2022 u/s 20(b)(ii)(c)/29/25 ND&PS Act.

6. Criminal Petition No. 8/2023 thus stands allowed and disposed of.

JUDGE

Comparing Assistant