

GAHC010009582024



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

Case No. : Crl.Rev.P./23/2024

UTTAM SHARMA
S/O ANUP SHARMA
R/O LOKHRA SEMALA P.O. SAWKUCHI
P.S. BASISTHA, GUWAHATI-40,
DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K SAIKIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

07.02.2024

Heard Mr. A.K. Saikia, learned counsel for the petitioner and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. In this petition, under Section 397 of the Cr.P.C., read with Sections 401/482 of the Cr.P.C., the petitioner has put to challenge the correctness or otherwise of the order dated 28.12.2023, passed by the learned Judicial

Magistrate First Class, Chirang at Kajalgaon.

3. It is to be noted here that vide order dated 28.12.2023, the learned court below has dismissed the petition filed by the petitioner seeking custody of the vehicle, bearing registration No. AS-01-NC-8310.

4. Mr. Saikia, learned counsel for the petitioner is the registered power of attorney holder of the aforesaid vehicle and on the relevant date, i.e. 17.10.2023, the said vehicle was seized by SI Biplab Konwar of Runikhata P.S., in connection with Runikhata P.S. Case No. 39/2023, under Sections 120[B]/420/406 of the IPC, at Runikhata on N.H. 127 C way. Mr. Saikia further submits that the vehicle was carrying stone chips from Bhutan to Bangladesh along with some other vehicle and that other vehicle have already delivered the items at Bangladesh, but, no payment has been made, as the stone chips loaded in the said seized vehicle has not yet been delivered, and the time fixed for delivery of the said articles has been fixed on 04.03.2024. Mr. Saikia also submits that due to non-payment of the amount, the company has been suffering a lot and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Barua, learned Addl. P.P. after obtaining instruction from the Officer In-Charge of concerned P.S., submits that the case is now pending for examination of the driver and owner of the said vehicle.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the impugned order dated 28.12.2023, passed by the learned Judicial Magistrate First Class, Chirang at Kajalgaon.

7. It appears that vide order dated 28.12.2023, the learned court below has dismissed the petition filed by the petitioner seeking custody of the vehicle, bearing registration No. AS-01-NC-8310, on the ground that the case is pending at the stage of investigation. But, as per instruction received by the learned Addl. P.P., from the Officer In-Charge of the concerned P.S., the case is pending for examination of the driver and owner of the vehicle only.

8. Having considered the submissions of learned counsel for both the parties and also considering the facts and circumstances on the record, this Court is inclined to allow this petition. It is provided that on furnishing an indemnity bond of Rs. 44,70,000/- to the satisfaction of the learned Judicial Magistrate First Class, Chirang at Kajalgaon, the vehicle, bearing registration No. AS-01-NC-8310, shall be released in the interim custody of the petitioner, who is the power of attorney holder of the vehicle, subject to the following conditions:

(i) that the petitioner shall make the vehicle available before the learned court below, as and when required; and

(ii) that the applicant shall not alienate the vehicle to any other person without prior permission of the learned court below.

9. In terms of above, this Criminal Revision Petition stands disposed of.

JUDGE

Comparing Assistant