

GAHC010010982024



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

Case No. : Crl.Pet./50/2024

AJIJUL ISLAM
S/O ABDUL KADIR
R/O VILL- 1 NO. BARACHALA,P.O. BARACHALA, P.S. LALUK
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

21.05.2024

Heard Mr. K. Boruah, learned counsel for the petitioner. Also heard Mr. K.K. Parashar, learned Additional Public Prosecutor on behalf of State respondents.

This is an application filed under Section 482 read with Section 401 of the Cr.PC for setting aside and quashing of order dated 29.09.2023 passed by the learned

Additional Sessions Judge (FTC), Lakhimpur, at North Lakhimpur in connection with Laluk P.S. case No. 172/2023, Under Sections 146/147/325/326/307/353/506/224 IPC read with Sections 21(a)/21(b)/29 of NDPS Act whereby the petition for Zimma was rejected by the learned Court below.

It is submitted by Mr. Boruah, learned counsel for the petitioner that during the investigation in connection with this case, the vehicle of the petitioner bearing registration No. AS-07-BC-1013, Tata pickup van, was also seized along with the other seized items. However, the present petitioner is the owner of the vehicle and he is no way connected with the alleged offence. He accordingly applied for Zimma of the vehicle before the Learned Additional Sessions Judge (FTC), Lakhimpur at North Lakhimpur, but vide order dated 29.09.2023, a prayer for Zimma was rejected considering the report of the I/O.

It is further submitted by Mr. Baruah that his vehicle was in custody of Police since 06.09.2023, thus his vehicle is in Police custody for a considerable period and hence, there is a probability of the damage of vehicle if the same is further kept in the custody of the police. It is further submitted that the petitioner is ready to execute a bond to satisfaction of the Court as well as to the satisfaction of the investigating agency, in the event of granting Zimma/custody of the vehicle to the petitioner. The report was called for from the I/O in this regard and accordingly the same has been received from the I/O.

In this context, it is submitted by Mr. Parashar, learned Additional Public Prosecutor, that the prayer for Zimma was rejected by the learned Court below with an observation that the petitioner could not produce any genuine source of money for purchasing the vehicle which was used for transportation of Narcotic substances and it was further observed that the freezing order has already been

passed and it is sent for confirmation from the Competent Authority. With that observation, the petition for Zimma was rejected by the learned Court below. However, as per report of the I/O, the vehicle is no longer required for further investigation of the case. In the same time, from the another report of the I/O, it is seen that the confirmation of freezing for Competent Authority is not yet received by the I/O. Accordingly the Additional Public Prosecutor, Mr. Parashar submits that the vehicle may be released in favour of the petitioner.

Considering the submissions made by the learned counsel of both sides and also considering the report received from the I/O and it is seen that the vehicle is no longer required for investigation purposes and in the same time it is seen that the confirmation has also not received from the Competent Authority regarding the freezing of the vehicle. In view of this, the present petition is accordingly allowed. The order passed by the learned Additional Sessions judge (FTC), Lakhimpur at North Lakhimpur dated 29.09.2023 rejecting the prayer for Zimma of the vehicle is hereby set aside and quashed allowing the prayer for Zimma filed by the present petitioner in regards to vehicle No. AS-07-BC-1013, Tata pickup van.

Accordingly, the learned Court below is hereby directed to release the Zimma of the vehicle in favour of the present petitioner on furnishing the reasonable and adequate bond to the satisfaction of the Court as well as the investigating Authority. Further, the investigating authority will release the vehicle verifying all the relevant documents and ascertaining the ownership of the vehicle.

With the above observations, this petition stands disposed.

JUDGE

Comparing Assistant