

GAHC010040682024



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

**Case No. : Crl.Pet./228/2024**

KAILASH DAS  
S/O NARENDRA DS  
R/O CHAPAGURI ROAD,  
WARD NO. 13, BOGAIGAON,  
P.O. BONGAIGAON  
P.S. BONGAIGAON,  
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR  
REP. BY THE PP, ASSAM

2:S.I. RAUFUL ISLAM  
S/O LATE SUKUR ALI  
I/C BOITAMARI  
OP  
DIST. BONGAIGAON  
ASSAM  
PIN-78338

**Advocate for the Petitioner : MR A K AZAD**  
**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MRS. JUSTICE MALASRI NANDI**

**ORDER**

**08.04.2024**

Heard Mr. A. K. Azad, learned counsel for the petitioner. Mr. R. R. Kaushik, learned Additional Public Prosecutor, Assam.

By this application under Section 482/401 of Cr.P.C., the petitioner has prayed for setting aside the impugned order dated 05.12.2023 and 15.12.2023 passed by the learned Special Judge, North Salmara, Abhayapuri, Bongaigaon.

The background of the case is that on 20.11.2023 an FIR has been lodged before the officer in-charge of Abhayapuri police station alleging inter alia that as per source of information regarding movement of suspected NDPS articles in a bus, a surprise naka checking was held at National Highway No.17 in front of Boitamari outpost under Bongaigaon police station. Accordingly, the suspected vehicle (bus) bearing No. AS01FC5240 was intercepted and after thorough search of the said vehicle, suspected heroin was recovered. Thereafter, the handyman and the driver of the said vehicle were arrested. The said bus was also seized.

Learned counsel for the petitioner has submitted that the seized vehicle was registered in the name of Kafil Uddin Fakir. But the present petitioner purchased the said vehicle on 26.10.2023 by executing a notarized sale agreement. Thereafter, the registered owner executed a special power of attorney in favour of the present petitioner whereby empowered the petitioner to take zimma of the said vehicle. According to learned counsel for the petitioner, on the basis of special power of attorney in favour of the petitioner, the petitioner has prayed to take zimma of the seized vehicle.

On the other hand, learned Additional Public Prosecutor submits that as the petitioner has failed to produce any document that he is the owner of the seized vehicle, by purchasing the same, he is not entitled to take zimma of the said vehicle.

Though the petitioner has claimed that he purchased the seized vehicle from one Kafil Uddin Fakir but no any document is available on record to show that the petitioner had purchased the said vehicle from the registered owner of the vehicle i.e. Kafil Uddin Fakir. One registration certificate of the vehicle is also available in the record from which it reveals that Kafil Uddin Fakir is still the registered owner of the seized vehicle. Hence, I do not find any irregularity in the order passed by the learned trial court.

Accordingly, the prayer of the petitioner seeking custody of the seized vehicle is rejected.

The criminal petition stands disposed of.

**JUDGE**

**Comparing Assistant**