

GAHC010069382024



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

Case No. : Crl.Rev.P./135/2024

AFZALUR RAHMAN
S/O FARMUD ALI
VILL- BIHDIYA, P.S HAJO
DIST. KAMRUP, ASSAM

VERSUS

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

2:DOROTHY BHARDWAJ
WSI(P)
DARARA POLICE OUT POST
C/O OFFICER-IN-CHARGE
HAJO POLICE STATION
HAJO
DIST. KAMRUP
ASSAM
PIN-78110

Advocate for the Petitioner : MR N RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 04-06-2024

1. Heard Mr. N Rahman, learned counsel for the petitioner. Also

heard Mr. B Sarma, learned Additional Public Prosecutor for the State of Assam.

2. This application under sections 397/401 Cr.P.C., is filed praying for zimma of the vehicle WagonR VXI bearing registration No. AS01EF0645, cash amount of Rs.7000 and one Oppo A-52 mobile handset in connection with Hajo PS Case No.490/2023 under sections 22(c)/29 NDPS Act read with section 28(A) of Drugs and Cosmetics Act, 1940.

3. Such prayer was rejected by the learned Special Judge, Amingaon in NDPS Case No.06/2024, vide order dated 21.03.2024 for the reason that the vehicle may be required for further investigation.

4. On a direction of this Court, Mr. P. Borthakur, the learned Additional Public Prosecutor for the State of Assam has produced a report dated 30.05.2024 of the Investigating Officer, who is investigating the Hajo PS Case No. 490/2023. The report discloses that no confiscation proceeding in respect of the seized material has been initiated and the seized vehicle WagonR VXI bearing registration AS01EF0645, and the Oppo A-52 mobile handset is no more required for further investigation of the case and it is also admitted that the present petitioner namely, Md. Afzalur Rahman is the registered owner of the seized vehicle.

5. In the considered opinion of this court the petitioner has been able to establish that he is the owner of the vehicle and the mobile.

Therefore, taking note of the principles laid down in ***Sunderbhai Ambala Desai Vs. State of Gujarat*** reported in ***(2002) 10 SCC 283***,

this court is of the view that the petitioner is entitled for the custody of the aforesaid material, inasmuch as keeping the same in police custody shall not achieve any meaningful purpose.

6. In view of the aforesaid report, it is directed that the Investigating Officer shall forthwith release and handover the zimma of the seized vehicle bearing registration No. AS01EF0645 (WagonR VXI), cash amount of Rs.7000 and one Oppo A-52 mobile handset to the petitioner, Md. Afzalur Rahman, after getting a bond of Rs. **5,00,000/- (Five lakhs)** executed from the petitioner for the said vehicle with conditions that:

- a) The investigating authority shall prepare proper panchnama of such articles and take photograph of such article and get the signature of the petitioner therein and the petitioner shall give a bond that such articles should be produced on issuing a bond of Rs.5,00,000 /-.
- b) The serial numbers of the currency note be recorded in a paper and signature of the petitioner be taken therein.
- c) The petitioner/owner shall not change the colour or structure of the vehicle and shall not also dispose of the vehicle and the mobile till disposal of the case.
- d) The petitioner/owner shall produce the vehicle and the mobile handset before the I/O or concerned authority as and when called for the purpose of investigation.

7. With the aforesaid observation and direction, this criminal revision petition stands disposed of.

JUDGE

Comparing Assistant