

GAHC010074612024



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

Case No. : Crl.Pet./436/2024

SALIM UDDIN
S/O ILAS ALI, R/O KATIRAIL T.E., P.O.-GONGAPUR, P.S.-KATIGORAH, DIST-
CACHAR, ASSAM, PIN-788805

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. I H LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

29.07.2024

Heard Mr P K Deka, learned counsel for the petitioner, Salim Uddin and Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam.

2. The status report relating to the vehicle of Maruti Alto Model, bearing Registration No. A-11-Q-2846, seized in connection with this case, was called for.
3. Case Diary has been forwarded.
4. It is submitted by the learned Additional Public Prosecutor that the IO has no

objection if the vehicle is handed over to the zimma of the registered owner.

5. This petition is filed by the petitioner, Salim Uddin, under Section 482 of the Code of Criminal Procedure, 1973, read with Article 227 of the Constitution of India for quashing and setting aside the impugned order dated 18.01.2024, passed by the learned Special Judge-cum-Sessions Judge, Dima Hasao, Haflong, in connection with Criminal Miscellaneous Case No. 04/2024, whereby the petitioner's prayer for zimma of the aforementioned vehicle was rejected by the learned Sessions Judge, observing that the case was registered under the NDPS Act and charge sheet has been filed under the NDPS Act.

6. The learned counsel for the petitioner has relied on the decision of Hon'ble the Supreme Court in *Sunderbhai Ambalal Desai –Vs- State of Gujarat*; reported in (2002) 10 SCC 283, wherein it has been held and observed that-

15. Learned senior counsel Mr. Dholakia, appearing for the State of Gujarat further submitted that at present in the police station premises, number of vehicles are kept unattended and vehicles become junk day by day. It is his contention that appropriate directions should be given to the Magistrates who are dealing with such questions to hand over such vehicles to its owner or to the person from whom the said vehicles are seized by taking appropriate bond and the guarantee for the return of the said vehicles if required by the Court at any point of time. However, the learned counsel appearing for the petitioners submitted that this question of handing over vehicles to the person from whom it is seized or to its true owner is always a matter of litigation and a lot of arguments are advanced by the concerned persons.

17. In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

21. However these powers are to be exercised by the concerned Magistrate. We hope and trust that the concerned Magistrate would take immediate action for seeing that powers under Section 451 Cr.P.C. are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the concerned High Court in seeing that the rules framed by the High Court with regard to such articles are implemented properly.

7. I have considered the submissions at the Bar.
8. I have also considered the submission that the charge sheet has not been submitted against the present petitioner. Charge sheet has been submitted vide CS No. 21/2023, dated 30.09.2023, against the other accused under Sections 21(b)/29 of the NDPS Act.
9. Investigation has culminated into a charge sheet and the IO has forwarded a report that the vehicle is not required in connection with this case. The petitioner is hereby directed to approach the competent authority and apply for zimma of the aforementioned

vehicle, and the zimma petition may be considered and any order may be passed handing zimma of the aforementioned vehicle to the registered owner of the vehicle under befitting terms and conditions so that the vehicle may not be alienated during trial and may be produced before the learned trial Court as and when directed.

10. In terms of the above observations, this criminal petition stands disposed of.

JUDGE

Comparing Assistant