

GAHC010087012024



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

Case No. : Crl.Pet./515/2024

MD. FAKRUL ISLAM
S/O SAMIR UDDIN
R/O VILL- UTTAR DIMORUPAR, P.O. KAPASHBARI, P.S. MURAJHAR
DIST. HOJAI, ASSAM, PIN-782445

VERSUS

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

2:GANESH BARMAN
HEAD CONSTABLE
HAMREN POLICE STATION
DIST. WEST KARBI ANGLONG
ASSAM
PIN-78248

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 09.05.2024

Heard Mr. A.I.Uddin, learned counsel for the petitioner. Also heard Mr.D.P.Goswami, learned Additional Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 482 of the Cr.P.C. read with Article 227 of the Constitution of India, the petitioner has challenged the order dated 04.04.2024 passed by the learned JMFC, Hamren in connection with PRC Case No. 35/2024 (arising out of Hamren PS Case No. 03/2024). The order has been challenged on the point that zimma of the vehicle was allowed in favour of the petitioner but a condition was imposed on the petitioner to furnish bank guarantee equivalent to the market value of the vehicle.

The learned counsel for the petitioner submits that the petitioner is a poor person and is not in a position to furnish bank guarantee equivalent to the market value of the vehicle. He has landed property standing in his name and as such, he is able to furnish surety of rupees equivalent to the market value of the vehicle as may be fixed by the learned trial court. As such, petitioner prays for modification of the order, dated 04.04.2024.

The learned counsel for the petitioner has placed reliance on the following cases:

- a) Ikram –vs- State of Rajasthan (Special Leave to Appeal (crl.) Nos. 4797-4799/2023)
- b) Dilowar Hussain –vs- State of Assam & anr. (Crl.Rev.P/160 /2024, Gauhati High Court)

Mr. D.P.Goswami, learned Additional Public Prosecutor, submits no objection on the prayer of the petitioner.

Having heard the learned counsel for the parties and on perusal of the documents annexed to the application and considering the averments made in the petition, the order dated 04.04.2024 is modified to the extent that the petitioner is allowed to furnish surety of like amount equivalent to the market value of the seized vehicle instead of furnishing Bank guarantee to the satisfaction of learned Magistrate.

The criminal petition stands disposed of accordingly.

JUDGE

Comparing Assistant