

GAHC010089952024



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

Case No. : Crl.Rev.P./177/2024

AJAY AGARWAL
S/O LATE JAGDISH CHANDRA AGARWAL, R/O SWAMI DAYANAND MARG,
WASALIGANJ, MAHAURIA, P.S. AND DIST- MIRZAPUR, UTTAR PRADESH,
231001

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:BIJAY KUMAR SINGH
S/O LATE DINANATH SINGH
ASSISTANT INSPECTOR
NEW BONGAIGAON GOVERNMENT RESERVE POLICE (GRP)
INVESTIGATION CENTRE
NEW BONGAIGAON
ASSAM (INFORMANT)

Advocate for the Petitioner : MR. M K CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

28.05.2024

1. Heard Ms. N Dutta, learned counsel for the petitioner. Also heard Mr. D Das,

learned Additional Public Prosecutor, Assam.

2. By way of the present petition, order dated 22.03.2024 passed by the learned Judicial Magistrate First Class, Bongaigaon in GRPS case No. 17/2024 is put to challenge.
3. The brief fact of the case can be recorded as under:
 - (i) On 20.02.2024 at around 1.15 p.m., the I/C of New NBQ GRP- Investigation Centre received an information that a male person is travelling in Coach No. A-1 of the North East Express (KYQ-ANVT) DN, Train No. 12505 towards New Bongaigaon and there is lot of stolen money in his bag.
 - (ii) Accordingly, the present petitioner was searched and cash amount of Rs. 20,00,000/- were recovered from his possession.
 - (iii) According to the police as the petitioner could not give any satisfactory reply, from where he has brought such money and the purpose thereof, it was suspected that this was stolen property.
 - (iv) Accordingly, FIR was lodged before the O/C, New Bongaigaon GRPS. The aforesaid FIR was registered as GRPS case No. 17/2024.
 - (v) The petitioner was arrested and he was produced before the learned CJM, Bongaigaon on 21.02.2024. Subsequently, the petitioner was released on bail.
 - (vi) Thereafter, the petitioner filed an application before the learned Magistrate for zimma of the money seized. Such zimma has been rejected on the ground that aforesaid money is required for further investigation.
4. This court had earlier called for the case diary of the aforesaid police station case. Such case diary is produced.
5. From perusal of the case diary, it is seen that no incriminating material has

been collected during investigation to suggest that the aforesaid money do not belong to the petitioner or that it is tainted money. There is also no material suggesting that such money has been claimed by third party, rather the petitioner has given certain explanation and there are records to suggest that the cash belongs to the petitioner. It is one matter that cash in such a huge quantity is not permissible to carry under the extant law but it is another matter to say that said money is involved in commission of offence. Therefore, in absence of any material to suggest that this is a tainted money or money stolen, this court is of the view that the petitioner, who is a business man, should not be deprived of the cash amount so seized subject to condition that the appropriate authority like Income Tax etc. may initiate necessary proceeding permissible under law.

6. It is also important that circulation of money in the economy itself helps the economy and keeping cash amount in police station under seized condition is also not in the interest of the economy inasmuch as it is not alleged that it is fake currency.
7. Therefore, considering the matter in its entirety, the present application stands allowed with the following conditions.
 - I. The seized cash be handed over to the petitioner, with a prior intimation to the jurisdictional Income Tax Officer.
 - II. The petitioner shall execute a bond of Rs. 20,00,000/- at the time of taking zimma before the appropriate authority.
 - III. The competent authority shall register the serial numbers of the notes.
 - IV. The competent authority shall take photographs of the notes.
8. Case diary be returned back.
9. While parting with the record, it is made clear that this order shall not debar

the competent authority under the Income Tax department to proceed against the petitioner, if so advised, including to exercise their power of seizure of such cash.

JUDGE

Comparing Assistant