

GAHC010128502024



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

Case No. : Crl.Pet./754/2024

BINOD KUMAR PAYENG
S/O- LATE MAHESH PAYENG, R/O- H.NO-37,
KALYANI SAGAR PATH,
P.O- KAHILIPARA,
P.S- DISPUR, DIST- KAMRUP (M), ASSAM

VERSUS

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

2:MANASH BASUMATARY
S/O- LATE PREM DAKPA

R/O- PADMA BILL

P.O AND P.S-GOSSAIGAON
DIST- KOKRAJHA

Advocate for the Petitioner : MR. S BORTHAKUR, MS. S KAKATI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

08-08-2024

Heard Ms. S Kakati, learned counsel for the petitioner and Ms. N Das, learned Additional Public Prosecutor, Assam for the State.

2. The petitioner served as Deputy Conservator of Forests, Environment and Forest

Department, Guwahati, Assam.

3. In connection with ACB (Anti-Corruption Bureau) Police Station Case No. 72/2023 registered under Section 120(B) IPC read with Section 7 (a) of the Prevention of Corruption Act, 1988 as amended, police on 28.09.2023 from the petitioner seized — (i) one Samsung mobile handset Galaxy S-23 5a 8/256 having IMEI No. 352772521550580 along with SIM card, (ii) one Apple mobile handset Iphone-14 Pro along with SIM card, (iii) one original Government Identity Card issued in the name of the petitioner and (iv) one Original PAN Card bearing No. ADCPP1652L also issued in his name.

4. The petitioner has filed this application seeking zimma of those two mobile handsets along with SIM Cards, his Identity Card and his PAN Card, noted above, that are in custody of the Investigating Officer of said ACB PS Case No. 72/2023.

5. Earlier the Court on 26.07.2024 called for the report from the concerned Investigating Officer of said ACB PS Case No. 72/2023.

6. Ms. N Das, learned Additional Public Prosecutor, Assam placed a communication of the Deputy Superintendent of Police, Directorate of Vigilance & Anti-Corruption, Assam dated 07.08.2024 before the Court, which specifies that both the mobile handsets, the Government Identity Card as well as the PAN Card of the petitioner were seized from him on 28.09.2023 in connection with said ACB PS Case No. 72/2023 and that at this stage those two mobile handsets seized from the petitioner on 28.09.2023 cannot be released on zimma, as in respect of those two mobile handsets the investigation is still ongoing. However, by the said communication dated 07.08.2024 the DSP, Directorate of V & A C, Assam clarified that the Identity Card and the PAN Card of the petitioner can be released on zimma.

7. Considering the said report of the DSP, Directorate of V & A C, Assam dated 07.08.2024 placed before the Court today by Ms. N Das, learned APP, the authority concerned in the Directorate of Vigilance & Anti-Corruption, Assam is directed to release the original Government Identity Card No. 18 dated 21.01.2021 in the name of the petitioner issued by the office of the Conservator of Forests, Central Southern, Assam S F Circle as well as the Original PAN Card in the name of the petitioner with Permanent Account No. ADCPP1652L, after keeping scan/xerox/photo copy of those documents, on condition that the petitioner shall produce those two documents in original before the Special Court, Assam whenever they are required in said ACB PS Case No.

72/2023.

8. Since investigation with regard to two mobile handsets, noted above, seized from the petitioner on 28.09.2023 in said ACB PS Case No. 72/2023 is still going on, therefore, zimma/release of those two mobile handsets to the petitioner is rejected at this stage.

9. With the above observation and direction, this criminal petition stands disposed of.

10. Copy of the communication of the Deputy Superintendent of Police, Directorate of Vigilance & Anti-Corruption, Assam dated 07.08.2024 placed before the Court today by Ms. N Das, learned APP, be kept as part of the record.

JUDGE

Comparing Assistant