

GAHC010167802024



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

Case No. : Crl.Rev.P./319/2024

DINESH BHAGAT
S/O LATE GHURAM BHAGAT,
R/O VILL- HIJURI GAON, P.S. TINSUKIA,
DIST. TINSUKIA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR A W AMAN, SAMIM RAHMAN, MR S A BARBHUYAN, MR. SURAJIT DAS, MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

07.11.2024

Heard Mr. S. Nawaz, the learned counsel appearing for the petitioner. Also heard Mr. M.P. Goswami, the learned Addl. Public Prosecutor, Assam.

2. This is an application under Sections 438 and 442 read with Section 528 of the BNSS, 2023 challenging the order dated 09.07.2024 passed by the learned Special Judge, NDPS, Karbi Anglong in NDPS Case No.39/2024.

3. Police seized opium from a vehicle bearing Registration No.NL-01-AF-0882.
4. The case has been *charge sheeted*. The petitioner's name does not appear in the said *charge sheet* and he is the actual registered owner of the vehicle. He filed an application before the trial court seeking custody of the seized vehicle.
5. The seized drugs were found in some secret chambers created in the vehicle. Therefore, the learned trial court had opined that the vehicle must have been used for such illegal activity for a long time and therefore, the prayer for custody of the vehicle was rejected.
6. Mr. Goswami has objected to this prayer for custody of the vehicle and submitted that scanned copy of the LCR is required to be called for.
7. I have considered the submissions made by the learned counsel of both sides.
8. This Court is of the opinion that the view expressed by the trial court is erroneous in law. The court should consider each case separately. The trial court should not have taken the presumption that the vehicle might have been used for such offences on earlier occasions also. Therefore, the impugned order dated 09.07.2024 passed by the learned Special Judge, NDPS, Karbi Anglong in NDPS Case No.39/2024, is set aside.
9. The Investigating Officer is directed to give custody of the vehicle bearing Registration No.NL-01-AF-0882 to its registered owner after proper verification of all the documents.
10. The registered owner shall execute a bond of ₹50,000/- to that effect.

With the aforesaid direction, the criminal revision petition is disposed of.

JUDGE

Comparing Assistant