

GAHC010168822024



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

Case No. : Crl.Rev.P./322/2024

BAHARUL ISLAM
S/O SHARAFAT ALI
VIL- MORISHUTIPAM
P.S. MAYONG,
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. T CHUTIA, MS S NASRAT

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 02-09-2024

Heard Mr. T. Chutia, learned counsel for the petitioner Baharul Islam, who has filed this application under Section 438/442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Section 528 of the BNSS, 2023 challenging the order dated 12.06.2024 passed in connection with Tezpur Police Station

Case No. 291/2024 by the learned Chief Judicial Magistrate, Sonitpur.

2. It is submitted on behalf of the petitioner that the petitioner will cooperate with the remaining part of the investigation. He is the registered owner of the vehicle bearing registration No. AS-01RC-6855 (1109 truck). The order dated 12.06.2024 was passed by the learned Chief Judicial Magistrate, Tezpur in connection with the aforementioned case also registered as G.R. Case No. 767/2024 on the basis of a report from the Investigating Officer. The Investigating Officer has reported that if the vehicle is handed over to the petitioner, the petitioner may evade appearance and it would be impossible to trace him out. On such report of the Investigating Officer, the impugned order dated 12.06.2024 in connection with G.R. Case No. 767/2024 corresponding to Tezpur Police Station Case No. 291/2024 has been passed.

3. However, the petitioner has submitted before this Court that the petitioner will cooperate with the remaining part of the investigation and abide by any stringent bail conditions if imposed upon him while handing over the zimma of the aforementioned vehicle.

4. Heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent State. Learned Additional Public Prosecutor has submitted that a report has been sent from the Investigating Officer that the petitioner could not produce any valid documents in support of his ownership.

5. Learned counsel for the petitioner has relied on the decision of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai vs. State of Gujarat* reported in AIR 2003 SCC 638 wherein it has been observed that the concerned Magistrate should take immediate action to release the zimma of the vehicle to the registered owner. It was also observed that the articles shall not be kept for a

long time in the Police Station or elsewhere in any case for not more than 15 (Fifteen) days to 1 (One) month.

6. Learned counsel for the petitioner has submitted that this vehicle is lying in the open and is getting damaged since 24.05.2024.

7. After considering the submissions at the bar, the petitioner is directed to appear before the learned trial Court and apply for zimma of the vehicle bearing registration No. AS-01-RC-6855 (1109 truck) on execution of a bond by the registered owner and the learned trial Court may impose any conditions which the trial Court deems fit and proper.

8. In terms of the above observation, this Criminal Revision Petition stands disposed of.

JUDGE

Comparing Assistant