

GAHC010227052024



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

**Case No. : Crl.Pet./1314/2024**

GUNA KANTA TAW  
S/O SRI KUMAR TAW, RESIDENT OF SILAPATHAR NA GAON, PO AND PS  
SILAPATHAR, DIST DHEMAJI, ASSAM

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY PP ASSAM

**Advocate for the Petitioner : MR. D GOGOI,**

**Advocate for the Respondent : PP, ASSAM,**

**BEFORE**  
**HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

**ORDER**

**Date : 04.11.2024**

Heard Mr. G. Chamuah, learned counsel appearing for the petitioner as well as Mr. R.R. Kaushik, learned Additional Public Prosecutor for the state of Assam.

2. This is an application u/s 528 of the BNSS,2023 praying for quashing the order dated 01.10.2024 passed by the learned Additional Chief judicial Magistrate, Dhemaji in GR Case No. 418/2024(SLP).

3. A person called Dipkumar Missong had lodged an FIR before police alleging that three

persons had committed theft of two cows belonging to him and the cows were carried by a Bolero Pickup truck bearing registration No. AS-07-BC/8498.

3. The cows were recovered and the vehicle was seized by police. The petitioner being the owner of the said truck filed an application before the court below praying for custody of the seized vehicle. The court called for a report from the Investigating Officer and the Investigating Officer reported that the said vehicle bearing registration No. AS07BC/8498 and the police reported that the said vehicle was not required for further investigation. In spite of that, the learned trial court refused the prayer of the petitioner by citing a judgment that was delivered in CrI. Pet. 284/2023.

4. I have considered the submissions made by the learned counsels of both sides.

5. In the said judgment, this Court has held that at the investigation stage seized articles cannot be released by court u/s 451 of the Cr.P.C. The court further held that u/s 457 of the Cr. P.C., the criminal court has jurisdiction to give custody of the seized properties at the stage of investigation when those seized properties are not produced before the court.

6. This Court is of the opinion that the learned trial court has erroneously oriented itself while interpreting the legal provisions. The trial court should have allowed the prayer of the petitioner. Therefore, the impugned order dated 01.10.2024 passed by the learned Additional Chief Judicial Magistrate, Dhemaji is set aside.

7. It is hereby directed that the Silapathar Police Station shall give custody of the said vehicle bearing registration No. AS07BC/8498 to its registered owner after verification of all the documents.

8. With the aforesaid directions, the present criminal petition stands disposed of.

**JUDGE**

**Comparing Assistant**