

GAHC010267342023



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

Case No. : Crl.Pet./1261/2023

AKHILESH PANDIT
S/O LATE BISHIN HOUSING ESTATE,
PHASE II, RABINDRA NAGORE, MAHESHTOLA (M),
SOUTH 24 PROGANAS
WEST BENGAL,
PIN-700018

VERSUS

THE UNION OF INDIA
REP. BY MINISTRY OF HOME AFFAIRS, NARCOTICS CONTROL BUREAU.

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : SC, NCB

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER

23.01.2024

Heard Mr. S.M. Abdullah P, learned counsel for the petitioner and also heard Mr. S.C. Kayel, learned Standing Counsel for the NCB, Guwahati.

2. In this petition, under Section 482 Cr.P.C. read with section 397/401 Cr.P.C. the petitioner, namely, Shri Akhilesh Pandit, has put to challenge the correctness or otherwise of the order dated 14.07.2023, passed by the learned Addl. Sessions Judge No.2, Kamrup(M), Guwahati, in NDPS Case No.48/2020, under Section 8 (c) read with section 20(b) (II) (C) of NDPS Act, arising out of NCB Crime No. 06/2020.

3. It is to be noted here that vide impugned order dated 14.07.2023, the learned Court below has dismissed the petition filed by the petitioner seeking custody of the vehicle, bearing registration No. WB-65C-2669, which was seized in connection with the aforementioned case.

4. The background fact leading to seizure of the aforementioned vehicle in NCB Crime No. 06/2020, is that on 10.02.2020, at about 18.30 hrs, acting on a tip off, Manish Modi, Intelligence Officer, NCB, Guwahati had intercepted one Truck, bearing registration No. WP-65 C-2669, at N.H. 37, near P.B. Motors Nalapara, and found one Shreebash Das in the driving seat and having been checked the vehicle he had recovered 359.500 kg(gross) of suspected Ganja from the vehicle and seized the same along with the vehicle by preparing seizure list.

5. Mr. Abdullah, learned counsel for the petitioner submits that the petitioner is the registered owner of the vehicle and that he had purchased the same from Financial Company on hire purchase and that he has to pay monthly installment of the vehicle to the company and that since the date of seizure the vehicle is lying unattended in the custody of the NCB and exposing to the sun and rain and unless given in the custody of the petitioner the same will be damaged completely and the learned Court below, in the impugned order has ignored this

fact completely. Mr. Abdullah also submits that the petitioner will produce the vehicle before the learned court below as and when directed. Therefore, it is contended to allow this petition.

6. Per contra, Mr. S.C. Keyal, learned Standing Counsel, NCB has vehemently opposed the petition. Mr. Keyal submits that the petitioner has been shown as absconder in the Final Complaint and that the quantity of contraband substances recovered from the seized Truck is huge quantity and that trial of the case is going on and at the end of trial the vehicle will be required for confiscation in the event of the charge being proved and therefore, Mr. Keyal has contended to dismiss the petition. Mr. Keyal has also referred one case law of Hon'ble Supreme Court in **Union of India vs. Dinesh Kumar Verma** reported in **(2005) 9 SCC 330**, in support of his submission that the vehicles involved in NDPS cases cannot be released.

7. Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record. Also I have gone through the report of the I.O. produced before the court by the learned Standing Counsel, NCB.

8. It is not in dispute that huge quantity of Ganja (359.5 kgs) was recovered from the seized Truck, bearing registration No.WB-65C-2669. Further, it is not in dispute that the quantity of seized Ganja is of commercial quantity. It is also not in dispute that the petitioner is the registered owner of the vehicle. But, it appears from the report of the I.O. that the petitioner is shown as absconder accused in the Final Complaint.

9. I have gone through the case law **Dinesh Kumar Verma** (supra) referred by Mr. Keyal and I find that in the said case Hon'ble Supreme Court has set

aside the order of High Court releasing the seized vehicle to the respondent of the said case and directed to surrender the same.

10. In the case in hand, the learned court below had dismissed the petition on the ground that the petitioner himself is an accused in this case and that the quantity of Ganja, recovered from the seized vehicle is of much more bigger than the commercial quantity. Having examined the impugned order in the light of given factual situation, this court is of the view that the learned court below has rightly dismissed the petition filed by the present petitioner. Thus, the impugned order of dismissal of the petition, so passed by the learned court below suffered from no infirmity or illegality requiring any interference of this court. Accordingly, the same stands dismissed.

11. In terms of above, this criminal petition stands disposed of.

JUDGE

Comparing Assistant