

GAHC010287982023



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

Case No. : Crl.Rev.P./553/2023

PABITRA NEWAR @PINKY @ PABITRA DEVI NEWAR
D/O MON BAHADUR NEWAR
R/O VILL- DAMRAPARA
P.O. SRIRAMPUR, PIN-783361
P.S. GOSSAIGAON
DIST. KOKRAJHAR, ASSAM
MOBILE NO. 7002778142

VERSUS

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

2:SANJOY KR. ROY (S.I.)
S/O SRI GOPAL CH. ROY
R/O VILL- BISHKHOWA
PART-IV

P.S. GOLAKGANJ
DIST. DHUBRI
ASSAM
PIN-78333

Advocate for the Petitioner : MR. A K AHMED, MD A ISLAM,M AHMED,MR A AHMED

Advocate for the Respondent : PP, ASSAM, MR. P TALUKDAR (R-2),MR. W R MEDHI (R-2),MR. P J BARMAN (R-2)

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

12.08.2024

1. Heard learned counsel Mr. A. K. Ahmed for the petitioner Pabitra Newar @ Pinky @ Pabitra Devi Newar.
2. This application has been filed by the petitioner under Section 397 of the Cr.P.C. read with Section 401 of the Cr.P.C., 1973 challenging the order dated 20.11.2023 passed by the learned SDJM, Gossaigaon in connection with Gossaigaon P.S. Case No. 248/2022 registered under Sections 379/411/413/420 of the IPC read with Section 13 (1) of Assam Cattle Preservation Act, 2021 and read with Section 17/18 of U.A.(P) Act.
3. Heard Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam for respondent No. 1 and learned counsel Mr. W. R. Medhi for respondent No. 2, i.e, the informant of this case.
4. It is alleged that the petitioner has illegally amassed property with the help of one cattle smuggler namely Ravi Shankar Kashi Reddy. The accused Ravi Shankar Kashi Reddy has been absconding as he was booked in connection with Gossaigaon P. S. Case No. 248/2022 and 46/2021. The petitioner was apprehended and interrogated, and admitted her role in assisting and running the illegal cattle trade in Assam, Bihar, U. P., Meghalaya and Bangladesh and she

has also revealed that she is the owner of a Flat at Guwahati and she possessed valuable jewellery and ornaments which were acquired through illegal cattle trade with the help of Ravi Shankar Kashi Reddy. The petitioner's rented house was searched and several articles were recovered which includes gold, platinum, diamond jewellery and other expensive items that were also seized in connection with this case. It is further contended that the petitioner was having a love relationship with the accused Ravi Shankar Kashi Reddy for the last seven years. She also assisted the accused in the trade and acquired valuable property.

5. The learned counsel for the respondent has raised serious objections against the prayer for Zimma of the articles seized in connection with this case. It is submitted that investigation is still under progress, and if the articles are handed in Zimma to the petitioner, investigation may be adversely affected. Moreover, it is also contended that against the impugned order dated 20.21.2023, passed by the learned SDJM, Gossaigaon, in connection with Gossaigaon P. S. Case No. 248/2022, an appeal lies under Section 12 of the Assam Cattle Preservation Act, 2021 and that, this revision petition is not tenable.

6. The order has been impugned as a cryptic order was passed by the learned

Magistrate. It is averred that the petitioner was not accorded an opportunity to place his submission and the petition with prayer for Zimma was rejected on the ground that no bank guarantee was afforded by the petitioner to take Zimma of the seized articles.

7. I have also scrutinized the Case Diary. Investigation is still under progress but at the same time, it is observed that the petitioner's ATMs and Cheque books have been seized in connection with this case. It is also submitted that the petitioner is unable to undergo gall-bladder operation as her ATMs and Cheque books were seized in connection with this case.

8. It is true that the impugned order was passed against the petition No. 570/2023, and without passing an order for Zimma, bank guarantee was called for.

9. In the wake of the foregoing discussions, at this juncture, I am not inclined to allow the petition. Petition stands rejected at this stage. No order as to costs.

10. However, the petitioner is at liberty to appear before the Jurisdictional Court and apply for Zimma of the articles seized in connection with this case.

11. In terms of the above observation, petition stands disposed of.

JUDGE

Comparing Assistant