

GAHC030001602024



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

Case No. : Crl.Pet./3/2024

Sh. Abdullah Barbhuiya
S/o Foizul Haque Barbhuiya
R/oDakshin Mohanpur Part-III,
Cachar District, Assam

VERSUS

The State of Mizoram r/b the Secretary/Commissioner, Excise and Narcotics
Department and Anr.
Government of Mizoram 2:The Officer-in-charge
Anti-Narcotics Squa

Advocate for the Petitioner : Mr. J H Ramneihmawia

Advocate for the Respondent : P.P./Addl.PP, Mizoram

B E F O R E
HON'BLE MRS. JUSTICE MARLI VANKUNG
O R D E R

28.03.2024

Heard Mr. J.H. Ramneihmawia, learned counsel for the petitioner, who has filed this petition under Section 482 of the Cr.P.C, 1973 for the release of the petitioner's motor vehicle (Ashok Leyland Truck) NP Brown color bearing registration No. AS-11EC 5636 Chasis No. MB 1A3GCDOPAMN6144, Engine No.

PNEZ402026 along with its ignition key and its registration plate.

2. The learned counsel submits that on 10.06.2023, on receiving information regarding drug trafficking from Champhai to Aizawl road, the S.I. Anti Narcotic Squad had apprehended the driver and other 4 persons in connection with the seizure of 5.810 kgs of heroin and Excise Case No. Ex-N 162/2023 under Section 21(c) of ND & PS Act, 1985 was registered against the above accused persons. The said vehicle was also seized on the same date and the vehicle has been kept under the custody of the Anti Narcotic Squad, Excise & Narcotics Department since the date of the seizure.

3. The learned counsel submits that the petitioner being the owner of the seized vehicle had made an application for the release of the said vehicle under *zimanama* to the learned Trial Court, however, the learned Judge, Special Court, ND & PS Act vide its order dated 16.12.2023 had rejected the application. The learned counsel submits that the vehicle has been kept idle for 9 (nine) months and that unless it is maintained properly there would be a danger of its malfunctioning and failure of function of its engine, since the vehicle is kept exposed in open air. He further submits that the instant petitioner is not an accused in the said case but that he is the owner of the vehicle, having no involvement in the seizure of the contraband substances. He further submits that if the vehicle is allowed to be released on *zimanama* the said vehicle will be produced as and when required during the trial of the case.

4. Mrs. Linda L. Fambawl, learned Addl. Pubic Prosecutor on the other hand has strongly objected stated that as per the contents of the charge sheet, it is seen that special compartments have been made in the said vehicle for the concealment of the contraband substances. In view of the above, it is likely that

the instant petitioner is aware of the concealment of the contraband substances seized from the said vehicle.

5. Having heard the submissions made by the learned counsel for both the parties, this court finds that the instant petitioner who is the rightful owner of the vehicle (Ashok Leyland Truck) NP Brown color bearing registration No.AS-11EC 5636, which was seized on 10.06.2023 by the Excise & Narcotics Department. It is however, seen that even though the learned Addl. Public Prosecutor submits that the owner of the vehicle is likely to had knowledge with regards to the concealment of the contraband substances which was seized from the vehicle from the special compartments said to be made in the vehicle, however, this court finds that the petitioner has not been made an accused in the instant case in the charge sheet duly filed after completion of the investigation.

6. In view of the above, since the petitioner has not been made an accused in the instant case and considering the fact that the said vehicle is exposed to wear and tear being kept in an open space for more than 9 (nine) months. This court finds it fit to allow the application and allow the release of the said vehicle No.AS-11EC 5636 on *zimanama* with a bond of Rs. 1,00,000/- (*Rupees one lakh*) only and under the condition that the said vehicle will be produced as and when required during trial of the case and that the petitioner will not make any alteration or change in the vehicle, where it is stated that the seized contraband substances were seized from special compartments made in the vehicle.

7. Accordingly, the said Crl. Petn. No.3/2024 stands allowed and disposed of.

JUDGE

Comparing Assistant