

GAHC030002442024



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

Case No. : Crl.Pet./6/2024

Smt. Lalmansangi
Ruantlang South, Chamohai District, Mizoram

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Ms. Lalngaihsaki Fanai

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

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA
ORDER

Date : 26-04-2024

Heard Ms. Lalngaihsaki Fanai, learned counsel for the petitioner. Also heard Mrs. Mary L. Khiangte, learned Additional Public Prosecutor.

2. This criminal petition, under Section 482 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Smt. Lalmansangi, praying for release of a vehicle (Alto 800) bearing Registration No. MZ01 N-2030 along with its ignition keys, which was seized in connection with Crl.Tr.(Ex) No. 1795/2023 corresponding to Excise Case No. Ex-N-232/2023 under Section 60(3) of the ND&PS Act, 1985.

3. The facts relevant for consideration of the instant criminal petition, in brief, are as follows:-

That the petitioner claims to be the owner of a Taxi (Alto 800) bearing Registration No. MZ01 N-2030 and she claims to have purchased it from its registered owner H. Lalthapuii on 11.08.2022. However, the said vehicle was driven by the driver of the petitioner, Sh. K. Vanlalmuana and he was found possessing 37 grams of Heroin in connection with the afore mention Excise Case on 22.08.2022, while he was driving the aforesaid vehicle. On the same date, the driver was apprehended and the aforesaid vehicle was seized and since the date of seizure, the vehicle presently is in custody of Excise Department.

4. The learned counsel for the petitioner has submitted that the petitioner was not knowing that her driver was carrying the contraband while he was driving the vehicle of the petitioner and it is also submitted by the learned counsel for the petitioner that the vehicle is the source of earning of the present petitioner and hence, she had approached the Court of learned Special Judge, ND&PS Act, Aizawl praying for release of the said vehicle. However, by Order dated 14.12.2023, the prayer for release of the vehicle in custody of the present petitioner was rejected by the learned Judge, ND&PS Act, on the ground that the case was at initial stage and it is under investigation.

5. The learned counsel for the petitioner has further submitted that the petitioner again after three months i.e., on the month of March approached the Court of Special Judge, ND&PS seeking Zimanama of the seized vehicle for the second time. However, on the second instance also, the learned Judge, Special Court, ND&PS by his Order, dated 04.03.2024 passed in CrI.Misc. Application No. 52/2024, rejected the prayer of the petitioner as there is no documents to show that the petitioner is the owner of the seized vehicle and it appeared from the

documents produced before the Court that the registered owner is Smt. H. Lalthanpuui.

6. The learned counsel for the petitioner has submitted that the petitioner in the instant case has also filed an additional affidavit, wherein she has placed on record an affidavit sworn by the original owner of the seized vehicle namely, Smt. H. Lalthanpuui. In the said affidavit, the registered owner has deposed that on 11.08.2022, she had sold the aforesaid vehicle to the present petitioner at a consideration amount of Rs. 5 lakhs and she has no objection if the name of the registered owner is changed in favour of the present petitioner, Smt. Lalmansangi.

7. The learned counsel for the petitioner has also submitted that there is a discrepancy in the name of the registered owner as in the Registration Certificate of the seized vehicle, the name of the registered owner is shown as Smt. H. Lalthanpuui, whereas in fact the name of the registered owner is Smt. H. Lalthanpuui. However, she has submitted that the real name of the registered owner of vehicle is "H. Lalthanpuui" and to that effect she has also produced a copy of the Voter ID card of the original owner of the seized vehicle.

The learned counsel for the petitioner has submitted that since the petitioner was not knowing that her vehicle has been used for committing offence under ND&PS Act, 1985 as well as the fact that no purpose would be served by retaining the said vehicle, she has prayed for allowing the petitioner to Zimanama of the said vehicle.

8. On the other hand, the learned Additional Public Prosecutor has submitted that though she has no objection regarding giving custody of the said vehicle to the rightful owner. However, in the instant case as the name of the registered

owner appears to be different from the name of the person who had sworn the affidavit and who has claimed to have sold the vehicle to the present petitioner, she has some reservations.

9. I have considered the submissions made by the learned counsel for both the sides and have perused the documents available on record.

10. It appears from the record that the vehicle in question was seized on 22.08.2022 and more than 1 year 8 months have lapsed since then. This Court is of the considered opinion that such long retention of the vehicle by the seizing authority would serve no purpose. Moreover, in the light of the observation made by the Apex Court in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat***, reported in **(2002) 10 SCC 283**, wherein the Apex Court has observed that whatever be the situation, it is of no use to keep the seized vehicles in police station for a long period and it is for the Magistrate to pass appropriate the orders immediately for taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time.

11. In the instant case also, the only impediment in releasing the vehicle in favour of the present petitioner appears to be in discrepancy of the name of the original owner in the certificate of registration and in her Voter ID card as well as other documents. In the certificate of registration, the letter 'H' is there in her name "Lalthanpuui" whereas in the Voter ID card her name has been shown as Smt. H. Laltanpuui. However, if we peruse the certificate of the registration as well as Voter ID, her husband name appears to be same in both the cases i.e., Mr. J. Lalthankima. Moreover, in view of the affidavit sworn by Smt. H. Laltanpuui, a copy of which is produced before the Court today, wherein she has categorically stated that she is the registered owner of the seized vehicle and

that she has sold the seized vehicle to the present petitioner, this Court is of the considered opinion that custody of the said vehicle in the instant case may be given to the present petitioner by imposing certain conditions.

12. In view of the above, the learned Special Judge, ND&PS Act, Aizawl is hereby directed to pass necessary order for release of the aforesaid vehicle in favour of the present petitioner, namely, Smt. Lalmansangi by directing her to furnish an indemnity bond of such an amount to be fixed by the learned Special Judge, for production of the said vehicle as and when so required for the purpose of the investigation or the trial. It should also be ensured that at the time of release of the said vehicle by the Investigating Officer of the concerned case, shall make detail inventory of the said vehicle containing all the details about the said vehicle as well as also take photographs of the said vehicle from various angles and thereafter, send the said photographs for inventory along with indemnity bond furnished by the petitioner to the Trial Court for keeping the same to the case record.

13. With the above observations and directions, this criminal petition stand allowed and accordingly disposed of.

JUDGE

Comparing Assistant