

GAHC030002482024



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

Case No. : Crl.Pet./7/2024

Sh. Malsawmenga
S/o Zalingthanga
R/o Zokhawthar, Champhai District, Mizoram

VERSUS

The State of Mizoram r/b PP/Addl. PP, Mizoram
Aizawl

Advocate for the Petitioner : Ms. Lalngaihsaki Fanai

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

ORDER

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

10.04.2024

Heard Ms. Lalngaihsaki Fanai, learned counsel for the petitioner, who submits that the petitioner who is the owner and driver of Bharat Benz 1917 B/R No. MZ-01/Z-3784 had been arrested for transportation of 2.952 kgs of Methamphetamine and 5.173 kgs of Crystal Methamphetamine. Thereafter, Excise Case No. N-302/2023 under Section 22(c) of the ND&PS Act was

registered against the petitioner and 4 accused persons.

2. The petitioner's counsel submits that Charge-sheet has been filed and charge consideration on the petitioner is to take place, along with 4 other accused persons.

3. The petitioner's counsel submits that the petitioner had submitted an application for Zimma of the Truck before the Special Court, ND&PS Act, Aizawl vide Criminal Miscellaneous Application No. 338/2023. The learned Special Court, vide Order dated 19.12.2023 allowed Criminal Miscellaneous Application No. 338/2023 by releasing the Truck on Zimma on the following conditions:-

“(1) The petitioner shall not sell/dispose of the seized Maruti Bharat Benz 1917 B/R No. MZ-01/Z-3784 and he shall maintain the original colour/condition and shall not modify the appearance of the seized Bolero.

(2) He shall execute an undertaking to the effect that he shall produce the same as and when the court directs.

(3) He shall deposit Rs. 3,00,000/- as security deposit.

(4) He shall submit a photograph of the seized Bharat Benz 1917 B/R No. MZ-01/Z-3784 taken from all angles.”

4. The petitioner's counsel submits that as the Truck had been taken on loan, the loan needs to be repaid. As the petitioner is not in a position to deposit Rs.

3 Lakhs, she accordingly prays that the security deposit amount may be lowered.

5. Mrs. Mary L. Khiangte, learned Addl. P.P submits that the security deposit fixed by the learned Trial Court is proper and there is no need to lower the said security deposit amount.

6. I have heard the learned counsels for the parties.

7. As can be seen from the Order dated 19.12.2023 passed in Criminal Miscellaneous Application No. 338/2023, the learned Trial Court has allowed the Truck to be released on Zimma to the petitioner with 4 (four) conditions, one of them being the deposit of Rs. 3 Lakhs as security deposit.

8. On considering the fact that the release of the Truck had already been allowed and as the petitioner is apparently unable to pay the said security deposit amount, this Court modifies condition No. 3 of the Order dated 19.12.2023 passed in Criminal Miscellaneous Application No. 338/2023 and directs that the security deposit shall be Rs. 1.5 Lakhs, instead of Rs. 3 Lakhs. However, an additional condition is made by this Court, which is to the effect that the petitioner shall deposit the original registration document/card with the learned Trial Court and the petitioner can keep a photo-copy of the same.

9. It is further made clear that the reduction in the security deposit amount made in this case shall not be used as a precedent in other cases, which should be decided by the learned Trial Court as per the facts and circumstances of each case.

10. The Criminal Petition is accordingly disposed of.

JUDGE

Comparing Assistant