GAHC010005782020

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

Case No. : Crl.Rev.P./17/2020

M/S. SHILLONG ISPAT AND ROLLING MILLS
A PARTNERSHIP FIRM, SITUATED AT 13TH MILE, TAMULKUCHI, BYRNIHAT, RI-BHOI DISTRICT, MEGHALAYA DULY REPRESENTED BY ONE OF ITS PARTNER SRI ROHIT CHOUDHURY AGED ABOUT 40 YEARS, S/O SRI RAJ KUMAR CHOUDHURY, BY FAITH AND RELIGION-HINDU, BY PROFESSION-BUSINESS, R/O ASSAM ISPAT COMPLEX, N.S. ROAD, FATASHIL, GUWAHATI-781009, DIST-KAMRUP(M), ASSAM, PHONE-

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A K SINGH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI

ORDER

Date : 02-12-2020

1. Heard Ms. P. Mishra, learned counsel for the petitioner and Mr. BB Gogoi, learned Addl. Public Prosecutor, Assam, appearing for the State respondent.

2. The challenge in this petition is to the orders dated 30.11.2018 and 03.10.2019 passed by the learned Addl. Sessions Judge No. 1, Kamrup (Metro), Guwahati in Sessions Case No. 257/2016 whereby the learned Additional Sessions Judge has rejected the prayer of the petitioner for interim custody of the seized money and kept the issue of interim custody pending till disposal of the case. The money in respect of which the custody is sought was seized by the police during investigation in a robbery case being G.R. Case No. 5709/2015. The police report which was forwarded to the court, a copy of which has been filed as Annexure-J shows that Rs. 11,78,500/- which was seized by the police during investigation, belongs to the informant. Since the application was filed under Section 451 of the Cr.P.C. seeking interim custody of the seized money, there was no question for keeping the petition pending till disposal of the case for the simple reason and after disposal of the case there is no question of interim custody.

3. The learned Addl. PP, Assam has submitted that the money belongs to the partnership firm, which has not approached the court seeking custody. It is submitted by the learned counsel for the petitioner that the petitioner is one of the partners and was authorized on behalf of the firm to file the application. Apparently money seized as per police report belongs to the firm and as such in my considered view, there is no difficulty in giving custody of the money to the petitioner firm. The firm not being a natural person, obviously someone authorised has to approach the court on behalf of the firm. The only question is to secure the custody so that the same can be produced before the court as and when required. Apparently, the money belongs to the firm of which the petitioner is one of the partners. Apparently all the partners have not come to the court.

4. In view of the above, this petition is disposed of with a direction to the learned trial court that the learned trial court shall pass an appropriate order of interim custody of the money in favour of the firm, M/s. Shillong Ispat and Rolling Mills on furnishing a proper indemnity bond jointly by all the partners of the firm to the satisfaction of the learned trial court.

5. The petition is accordingly disposed of.

JUDGE

Comparing Assistant