GAHC010138432020

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

Case No. : Crl.Rev.P./189/2020

MD SHAMSAD ALAM
S/O MD AYUB, R/O CHANDMARI, KOHIMA, NAGALAND

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:CHAMPAK SAIKIA
SUB INSPECTOR
SECURITY DEPARTMENT
OIL INDIA LTD.
PHQ NARENGI
GUWAHATI
P.S.-SATGAON
DIST-KAMRUP(M)
PIN-78102

Advocate for the Petitioner : MR. S BORTHAKUR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI

ORDER

Date : 08-12-2020

1. Heard Mr. S. Borthakur, learned counsel for the petitioner and Mr. BB Gogoi, the

learned Addl. Public Prosecutor, Assam appearing for the State respondent.

2. The petitioner is aggrieved by order dated 03.09.2020 whereby the prayer of the petitioner for interim custody of vehicle bearing registration No. NL-01-AC 1523 alongwith goods carrying therein was rejected by the learned Magistrate.

3. The learned counsel for the petitioner submits that the petitioner is the registered owner of the vehicle and he had all necessary documents including the tax invoices etc in respect of the goods carried in the vehicle. However, the learned trial court did not consider the documents produced by the petitioner and rejected the petition only on the ground, that for the purpose of investigation, the vehicle and the goods therein were required. Apparently the vehicle was seized on 04.03.2020 and since then it is lying in the Police Station. The report of the Investigating Officer submitted before the learned Magistrate on 30.06.2020 demonstrates that the present petitioner is the registered owner of the vehicle. It is also reflected in the said report that the sample of the oil carried in the vehicle was also sent to FSL for examination.

4. The learned Addl. Public Prosecutor, Assam Mr. BB Gogoi fairly submits from the records that the petitioner is the registered owner of the vehicle which was seized by the police in the instant case, in the month of March, 2020. The mandate of the Apex Court in the case of Sunderbhai Ambalal Desai- versus- State of Gujrat, reported in (2002) 10 SCC 283 is that an application under Section 451 for interim custody of the vehicle and other goods is to be disposed of expeditiously and the articles shall not be kept in the Police Station for more than one month. The Apex Court also observed that if the sample is required to be taken, the sample may be kept properly, after sending it to the chemical Analyser, but in no case large quantity of article should be stored at the police station.

5. In the instance case, admittedly, the vehicle is lying in the police station at least for 9 months and sample of the oil has also sent for chemical examination and as such, there is no point for not giving the vehicle in the custody of the registered owner.

6. Accordingly, it is directed that the learned trial court shall pass an appropriate order giving interim custody of the vehicle to the registered owner on furnishing a sufficient security/ bond to the satisfaction of the learned Magistrate. While granting interim custody to the petitioner, the learned Magistrate may verify the documents as to the ownership of the vehicle.

7. This petition is disposed of.

8. Send down the LCR.

JUDGE

Comparing Assistant