GAHC010207582026

2026:GAU-AS:15502

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

Case No. : I.A.(Crl.)/981/2026

MS PRAGATI TRADERS AND TRANSPORT AND ANR
REPRESENTED BY ITS PROPRIETOR/OWNER SMTI PRIYA DEVI, AGED 27 YEARS, W/O- SRI CHANDAN NEWAR, PERMANENT RESIDENT OF VILLAGEJAKHALABHANDHA, DIST.- NAGAON, ASSAM, PIN-782136

2: SMTI PRIYA DEVI
W/O- SRI CHANDAN NEWAR
PERMANENT RESIDENT OF VILLAGEJAKHALABHANDHA
DIST.- NAGAON
ASSAM
PIN-78213

VERSUS

STATE OF ASSAM AND ANR
REPRESENTED BY PUBLIC PROSECUTOR.

2:SRI DEW KUMAR SINGH

HC UB HEAD CONSTABLE UNARMED BRANCH
ANJOKPANI POLICE STATION
DIST.- KARBI ANGLONG
ASSAM

Advocate for the Petitioner : MR B P BORAH, MR H MAZUMDER

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 13.10.2026

Heard Mr. B. P. Borah, the learned counsel for the petitioners and Mr. R. J. Baruah, the learned Addl. Public Prosecutor for the State of Assam.

2. By this application, the petitioner has prayed for modification of the order dated 24.08.2026, passed by this Court in Crl. Pet. 1166/2026. By the said order dated 24.08.2026, this Court had directed the Investigating Officer to give the seized machine, i.e. Tata Hitachi Poclain EX-210 LC Machine with Rock Breaker, Atlas Copco Model MB1500, Engine No. 60A62448886, in custody to the petitioner during the pendency of the trial of the Anjokpani, P.S. Case No. 03/2026. In the said order it was further directed that the Investigating Officer while giving the custody should take all the necessary steps required as held by the Hon'ble Supreme Court to the effect that they should take photographs, take a bank guarantee as well as the guarantee to produce the machine as and when required before the Trial Court.

3. The learned counsel for the petitioner submits that a bank guarantee of Rs. 20,00,000/-(Rupees Twenty Lakhs) was asked for as a condition for the said machine to be given in custody to the petitioner.

4. He submits that, the petitioner is out of job and he is unable to give that bank guarantee and as such, prays that the petitioner may be directed to submit a bond in connection with the said machine and the same be given in

custody to him and by this prayer, the learned counsels submits that the condition be modified.

5. It is a settled position of law that conditions, whether in bail matters or in other matters should not be that harsh or onerous, which will make the petitioner unable to fulfill the same. It is stated by the petitioner that to get a bank guarantee from the bank, the applicant has to make a fixed deposit of Rs. 20, 00,000/- (Rupees Twenty Lakhs) and it is stated by the petitioner that he does not have such a huge amount as fixed deposit in the bank and that, neither he is capable of arranging such a huge amount of money for the purpose of getting the bank guarantee.

6. He further submits that he is ready to co-operate with all the other necessary formalities and procedures by submitting an undertaking and bond before the Investigating Officer in the event of grant of zimma of the machine to him.

7. This Court after going through the pleadings mentioned in the said petition and being satisfied with the same, further directs that the condition of submitting a bank guarantee be modified/omitted.

8. As such, the Investigating Officer is directed to give the custody of the said machine to the petitioner by taking photographs and by taking a bond of Rs. 5, 00,000/- (Rupees Five Lakhs) as well as by complying with the other conditions mentioned in the said order.

9. The Interlocutory Applications stands disposed of.

JUDGE

Comparing Assistant