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

Case No. : Crl.Pet./1645/2026

MS LALENGMAWII
DAUGHTER OF- H THANGKIMA, RESIDENT OF VILL.- PHUNCHAWNG NEAR WOMEN CENTRE, P.S.- BAWNGKAWN, DISTRICT- AIZAWL, MIZORAM. PIN796009.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM.

Advocate for the Petitioner : MR. L R MAZUMDER, U A KHANOM,MR. A ISLAM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 25.11.2026

Heard Mr. L R Mazumder, learned counsel for the petitioner and Ms. S. H. Borah, learned Addl. Public Prosecutor for the State of Assam.

2. By this application filed under section 528 of BNSS 2023, the petitioner has prayed for modification of the order dated 08-01-2026, passed by the Special

Judge Cachar Silchar in NDPS Case No. 101 of 2025, by which the Officer-in-Charge of Dholai Police Station was directed to release the seized vehicle on interim zimma on execution of a bond along with a bank guarantee equivalent to the market value of the vehicle. The learned counsel for the petitioner submits that the petitioner is only aggrieved with the condition attached to the order directing release of the seized vehicle on interim zimma. He submits that the court of Special Judge Cachar Silchar had attached the condition that the petitioner has to give a bank guarantee equivalent to the present value of the vehicle as security. The learned counsel for the petitioner submits that, the said condition is very harsh and that the petitioner is unable to give the said bank guarantee due to which the vehicle could not be released to the petitioner on zimma. He submits that, the order allowing the zimma was passed on 08-01-2026 and till date the petitioner due to the said condition could not get the vehicle on zimma.

3. Ms. S.H. Borah, learned APP on the other hand submits that conditions have to be given while releasing the article on zimma and giving bank guarantee is one of the same.

4. The Hon'ble Apex Court in a number of judgments, one of them being "***Sundarbhai Ambalal Desai vs. State of Gujarat***" ***reported in (2002) 10 SCC 283***; had held that articles which are seized in connection with any criminal case should be given in custody to the owner of the said article or to the person from whom it is seized by the Magistrate as soon as possible. The Supreme Court had also held that keeping the articles in the police station or at any other place under the custody of the prosecution should not be done, since the said articles will get damaged and destroyed with time. However, in the said judgment the Apex Court had held that while giving the articles in custody to the owner or otherwise the concerned court or the Investigating Officer should take appropriate bond and guarantee for the return of the said article if required by the court at any point of

time. It is also held that before giving the articles in zimma, photographs and detailed Panchnama should be prepared.

5. In the instant case, it is seen that the said direction of the Supreme Court has been complied with by the court while giving zimma of the vehicle to the petitioner, but one of the condition that was ascribed in the said order was to the effect that the petitioner has to give a bank guarantee equivalent to the present value of the vehicle.

6. The Hon'ble Apex Court had held that guarantee should be taken from the owner or from the person to whom the zimma is given only for the purpose that the said articles have to be returned to the court if required at any point of time. It is as such, directed that the Investigating Officer should not harp upon taking the bank guarantee and the same be dispensed with while deciding with the issue to hand over the vehicle to the petitioner.

7. Accordingly, the said condition attached to the zimma order dated 08-01-2026 is interfered with. The other conditions that are attached to the said order will remain intact.

8. With this observation, the petitioner is disposed of.

JUDGE

Comparing Assistant