

GAHC010062872024



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

Case No. : Crl.Pet./346/2024

PACHHUNGA
S/O LALNUMZIRA, R/O VILL- EDEN VENG, MEIDUM, MAIDIUM, KALASIB,
P.O.-MEIDUM, P.S.-KALASIB, DIST- KOLASIB, MIZORAM, PIN-798081

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. S B CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

10.05.2024

Heard Ms. S.B. Choudhury, learned counsel for the petitioner and also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Correctness or otherwise of the order dated 12.03.2024, passed by the learned

Special Judge, Hailakandi, in Special (NDPS) Case No.02/2024, arising out of Ramnathpur P.S. Case No.15/2024, is challenged in this petition under Section 482 read with Section 401/397 of the Code of Criminal Procedure, 1973. It is to be noted here that vide impugned order dated 12.03.2024, the learned Special Judge, Hailakandi, has dismissed the petition filed by the petitioner seeking custody of the vehicle, bearing Registration No.MZ-05B-1213.

3. Ms. Choudhury, learned counsel for the petitioner submits that the petitioner, namely, Pachhunga is the registered owner of the vehicle i.e. grey coloured Ignis car, bearing Registration No.MZ-05B-1213. The said vehicle has been hired by one Rickey Zamuansanga from the petitioner only for one day and thereafter, the said vehicle was intercepted by police of Ramnathpur P.S. on 13.02.2024 and recovered 27 nos. of plastic soap case containing 348 gms of suspected narcotic drugs (Heroin) kept inside the soap cases wrapped by black coloured polythene materials. Ms. Choudhury, learned counsel for the petitioner further submits that the petitioner is not an accused here in this case and without his knowledge the person, who had hired the vehicle, carried the contraband substances and that the petitioner will produce the vehicle before the investigating agency as and when directed and therefore, Ms. Choudhury has contended to release the vehicle in the custody of the present petitioner. Ms. Choudhury has also referred two decisions, one of Hon'ble Supreme Court in the case of **Sunderbhai Ambalal Desai vs. State of Gujarat**, reported in **(2002) 10 SCC 283** and a decision of a coordinate bench of this Court in the case of **Angomjambam Nabakumar Singh vs. Union of India, [Crl.Pet. No.384/2020]**, decided on 16.09.2020] in support of her submission.

4. On the other hand, Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, has produced a report of the I.O. before this Court as per direction of this Court dated 22.04.2024 and also the case diary before this Court and submits that the investigation of the case is still going on and some of the accused are yet to be arrested and commercial quantity of Heroin were recovered from the vehicle and as such, Mr. Gogoi contended to dismiss the petition at this stage.

5. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the report produced by Mr. Gogoi, learned Additional P.P. and also perused the case diary.

6. It appears that the vehicle was seized in connection with Ramnathpur P.S. Case No.15/2024 on 13.02.2024 and the I.O. has recovered 27 nos. of plastic soap cases from the vehicle in question containing suspected narcotic drugs (Heroin), weighing 348 gms. Further, it appears from the report that the investigation is still going on and the vehicle is required for the purpose of investigation and as such, releasing the vehicle at this stage will hamper the investigation.

7. I have carefully gone through the decisions referred by Ms. Choudhury, learned counsel for the petitioner and it appears that in the given facts and circumstances on the record, the ratio laid down in the aforementioned cases would not come into aid of the petitioner and as such, this Court is of the view that this is not a fit case where the vehicle can be released to the petitioner. Accordingly, the petition stands dismissed.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant