



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

Case No. : Crl. Pet./24/2026

MR. RAMJAN ALI
S/O MANNAN ALI, R/O LAKE VIEW COLONY, DIMAPUR,
NAGALAND

VERSUS

THE STATE OF NAGALAND
THROUGH THE PUBLIC PROSECUTOR, NAGALAND

Advocate for the Petitioner : ALEMWAPANG AO, SHISA JAMIR,ATI JAMIR

Advocate for the Respondent : P.P, NAGALAND,

BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

Date : 03.09.2026

1. The instant application under Section 497 of the BNSS read with Section 438 and Section 528 of the BNSS has been filed by the Petitioner praying for release of the seized vehicle Xylo (Diamond White) bearing Registration No. NL 07H 6998, Chassis No. MA1PT2MLXH2K40, Engine No.

MLH4K18107. The vehicle was seized in connection with Special Case No. 09/2025 in connection with Narcotic PS Case no. 05/2025 under Sections 21(c)/60 NDPS read with Section 61, BNS.

2. Heard learned counsel for the Petitioner, Ms. Shisa Jamir. Also heard Mr. Veto V. Zhimomi, learned Public Prosecutor for the State of Nagaland.

3. The case of the Petitioner herein is that on 05.05.2026 a team from the Narcotic Police Station was deployed for interception duty at the Phesama Village, New Reserve area, after receiving reliable information that a suspect was transporting illegal narcotic drugs from Manipur to Nagaland. Thereafter, the duty party intercepted the Xylo vehicle bearing Registration No. NL 07H 6998. After checking and searching the vehicle, 30 (thirty) soap cases containing suspected to be heroin were recovered from a modified fuel tank where they had been concealed. Subsequently, Special Case No. 09/2025 was registered under Sections 21(c) and 60 of the NDPS Act read with Section 61 of the BNS.

4. It is the submission of the learned counsel for the Petitioner that the Petitioner is the registered and lawful owner of the seized vehicle, Xylo (Diamond White) bearing Registration No. NL 07H 6998, Chassis No. MA1PT2MLXH2K40 and Engine No. MLH4K18107. The Petitioner had purchased the said vehicle on loan instalment (EMI) basis for the use of himself and his family. The said vehicle was financed and is presently under hypothecation with Shriram Finance, Bokajan Assam.

5. The learned counsel for the Petitioner further submits that owing to his ill health and inability to personally operate and manage the vehicle,

the Petitioner executed a Power of Attorney bearing Registration No. 293/2024 dated 23.09.2024 in favour of one Mr. Habibur Rahman who had been known to the Petitioner for a long period of time. The said Power of Attorney was executed in good faith before the Notary Public and in the presence of witnesses, authorizing the attorney holder to use and manage the vehicle subject to the terms and conditions contained therein. The Petitioner entrusted the vehicle to the attorney holder upon his assurance that the vehicle would be used strictly for lawful purposes and that the monthly EMI liabilities in respect of the said vehicle would be regularly paid.

6. However, the aforesaid vehicle came to be seized by the Narcotic Police in connection with the Special Case No. 09/2025 on 05.05.2026.

7. It is the submission of the learned counsel for the Petitioner that the Petitioner was neither present at the place of occurrence nor had any knowledge whatsoever regarding the alleged transportation or possession of the contraband substance recovered from the vehicle. It is stated that the Petitioner also filed a Zimma Application No. 255/2025 before the learned Special Judge, NDPS praying for release of the vehicle. However, the learned Trial Court after hearing the parties rejected the application by order dated 04.02.2026 on the ground that the vehicle was structurally modified and specially designed for transportation of contraband and therefore, the plea of raising ignorance by the applicant could not be accepted on face value particularly when the vehicle was found to be used as a means for commission of the offence under the NDPS Act. Moreover, considering the gravity of the offence, the said Zimma Application No.

255/2025 was dismissed.

8. Learned counsel for the Petitioner submits that the Power of Attorney holder has now become untraceable and he is absconding till date. Therefore, the learned counsel for the Petitioner is unable to contact the said Power of Attorney holder for the purpose of recovering possession of the vehicle and to ensure payment of the outstanding EMI instalments. In the meantime, the Petitioner has received an intimation letter from Shriram Finance Limited dated 02.05.2026 regarding the outstanding dues pertaining to the said vehicle amounting to Rs. 1,39,595.17/- due and payable as on 02.05.2026.

9. Learned counsel, relying on the case of ***Sunderbhai Ambalal Desai v. State of Gujarat [(2002) 10 SCC 283]***, submits that the Hon'ble Supreme Court in the said case has held that whatever be the situation it is of no use to keep such seized vehicles at the police station for a long period and it is for the Magistrate to pass appropriate bond and guarantee as well as security for return of the said vehicles, if required at that point of time.

10. Learned counsel for the Petitioner is ready and willing to extend full cooperation to the investigating agency as well as the Trial Court and undertakes to produce the seized vehicle as and when required for the purpose of investigation or trial.

11. The learned Public Prosecutor on the other hand has produced the Case Diary and submits that the Petitioner appeared before the investigating agency and in his statement he has stated that he sold the

vehicle to Habibur Rahman in the month of September, 2024 and obtained the Power of Attorney dated 23.09.2024. He also stated before the Investigating Officer that Habibur Rahman had agreed to pay the EMI towards Shriram Finance Limited, Bokajan and to transfer the said motor vehicle in his name only after completion of the EMI payment.

12. Learned Public Prosecutor therefore submits that at the time of commission of the offence, it was Habibur Rahman who was in possession of the vehicle and was the real owner and not the Petitioner. Moreover, the said Habibur Rahman is evading arrest and is absconding till date and releasing the said vehicle on zimma at this stage may cause tampering, alteration of the appearance of the vehicle and will create difficulties and hamper the investigation. Moreover, the seized vehicle was modified by installing an additional chamber in the fuel tank which could not have been done without the knowledge of the owner/Habibur Rahman who is yet to be apprehended.

13. Learned Public Prosecutor also submits that the prayer for confiscation of the seized vehicle has been made before the learned Trial Court as the said vehicle was directly used by Habibur Rahman, who was the real owner and was the in-charge of the vehicle at the time of the offence. And he had used it to transport the contraband substance. Learned counsel, therefore submits that the instant application may be dismissed as the release of the said vehicle at this stage would hamper the investigation.

14. I have duly considered the submission of the learned counsel for the

parties and perused the pleadings as well as the Case Diary produced by the learned Public Prosecutor.

15. A perusal of the statement made by the Petitioner before the investigating agency goes to show that the Petitioner categorically stated before the investigating agency that he had sold the vehicle to Habibur Rahman in the month of September, 2024 and executed the Power of Attorney dated 23.09.2024. Habibur Rahman agreed to pay Rs. 17,300/- per month till the completion of the EMI payment towards Shriram Finance Limited and he also agreed to change the ownership into his name after completion of the EMI payment. This Court has also gone through the Power of Attorney executed between the Petitioner and Habibur Rahman. The Power of Attorney specifically states that Habibur Rahman has been given the Power of Attorney to manage and execute all the affairs of the said vehicle and to use at all times as his own vehicle and to pay such remuneration and hypothecation EMIs to Shriram Finance Limited, Bokajan, w.e.f. 13.06.2024.

16. Further, Habibur Rahman had to maintain the vehicle and to pay all the bills in respect of the maintenance and repairs and to represent the Petitioner in any matter and carry on or defend all suits and other actions and proceedings including appointment of lawyers/advocates for courts, revenue, civil and criminal and to sign and verify all plaint, applications, written statements, appearing memos to swear affidavits, accept service of all summons notices and other judicial processes as and when necessary. The condition No. 5 in the Power of Attorney also states that the motor vehicle would be transferred in the name of Habibur Rahman

only after the payment of the EMIs towards Shriram Finance Limited, Bokajan is made. The said Power of Attorney was executed between the Petitioner and Habibur Rahman in the presence of the Notary Public and two witnesses.

17. Therefore, in effect, it is seen that the Petitioner is no longer the owner of the said vehicle but the said Habibur Rahman is the real owner and mere failure to change the name in the RC would not entitle the Petitioner to claim the seized vehicle as his own. It is also seen from the records that at the time of seizure of the said vehicle it was in the possession of Habibur Rahman and under his control. It is also a pertinent factor that the said Habibur Rahman is evading arrest and has not been apprehended till date.

18. In view of the above facts and circumstances, this Court is of the view that , releasing the said seized vehicle Xylo (Diamond White) with Registration No. NL 07H 6998, Chassis No. MA1PT2MLXH2K40, Engine No. MLH4K18107 at this stage would hamper the process of investigation. Moreover, the said Habibur Rahman who was in possession of the seized vehicle is still absconding. Therefore, the instant petition stands dismissed.

JUDGE

Comparing Assistant