

\$~17

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 515/2011

JAGMOHAN SINGH BAGGA Petitioner
Through Mr. J.S. Vohra, Adv.

versus

STATE Respondent
Through Mr. Mukesh Gupta, APP for State
with SI Ravindra Singh, AATS/North
Delhi.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
28.11.2011

%

By the present petition the Petitioner challenges the order dated 22nd December, 2010 passed by the Learned Additional Sessions Judge directing release of the seized 'manufactured fireworks' sans the samples to the Petitioner on superdari in a revision petition filed by the Petitioner.

Briefly the facts leading to the filing of the present petition are that the Petitioner is running a shop of fire crackers in the name and style of "Jaggi Fire Works". On 28th October, 2010 on receipt of an information that crackers were stored illegally, carelessly and in huge quantity so as to put life of human beings in danger, a raid was conducted by the Operation Cell

CRL.M.C. 515/2011

page 1 of 4

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

9

(North). The Petitioner was asked to produce the license. The License No. E/NC/DL/24/29(E-12077) dated 31st March, 1991 in possession of the Petitioner permitted him to keep the crackers for a quantity of 2000 kg. It was revealed that the Petitioner had huge quantity of open and close boxes of different type of crackers much beyond the quantity of 2000 kg permissible by the license. Thus, excess crackers weighing 7470 kg were taken in Police possession and seized. A case FIR No. 183/2010 under Section 286 IPC and 5/9 (B) Explosive Act was registered at P.S. Roop Nagar and investigation conducted thereon.

During the investigation samples were sent to FSL and a charge-sheet was filed on 2nd February, 2011. On 2nd November, 2010 the Petitioner filed an application for release of the seized fire crackers on superdari before the Learned ACMM which was dismissed. Against the said order the Petitioner filed a revision petition before the Learned Additional Sessions Judge who allowed the application vide order dated 22nd December, 2010 which is the order impugned in the present petition.

The grievance of the Petitioner against the impugned order is that though the excess crackers have been given to him on superdari, however he has been directed to produce the case property during trial as and when

10

required and he has to furnish an undertaking about the manner they shall be stored and place of storage. It may be noted that keeping in view the life span of the articles, the Learned Additional Sessions Judge directed expeditious disposal of the trial within a period of 9 months upon filing of the charge-sheet. The Investigating Officer was also directed to take the photographs of the entire seized material in sufficient numbers and report was directed to be submitted to the Court with the charge-sheet before release of the seized articles. The learned Additional Sessions Judge while considering the contentions of Petitioner held that the issues raised by the Petitioner were triable issues about infraction of the rules and procedure. Thus, instead of directing the Police to keep the manufactured fireworks in the malkhana, it directed it to be released to the Petitioner on superdari who has a license to possess and sell manufactured fire goods till 31st March, 2014.

The Petitioner by way of the present petition seeks that he be permitted to sell the crackers. According to the Petitioner the goods were checked regularly by the Chief Controller of Explosives and he has been falsely implicated in the abovementioned case. According to him a search and seizure without authority of Chief Controller of Explosives was illegal.

//

It may be noted that the Petitioner himself had sought superdari of the case property. The superdari of the case property can be given with the condition to produce the case property as and when directed during the trial. No doubt, Court under Section 457 Cr.P.C. has the power to direct selling of the perishable goods, however in the facts of this case these goods are of not such a nature that they would perish on being stored. Further the Learned Additional Sessions Judge has already expedited the trial. The Petitioner cannot be permitted to sell the goods to his benefit. In case the Petitioner is unwilling to keep the goods on superdari pending disposal of the trial, he is at liberty to move an appropriate application before the Learned Trial Court and it will be then for the Learned Trial Court to pass appropriate orders thereon. I find no infirmity in the impugned order.

Petition is dismissed.


MUKTA GUPTA, J

NOVEMBER 28, 2011
'ga'