

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

Crl.Rev.P. No. 3 of 2022

Shyam Kishore Sahani

.....*Petitioner/s*

- Versus -

Intelligence Officer, Narcotics Control Bureau, Imphal

.... *Respondent/s*

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

Order

25.07.2024

[1] Heard Mr. M. Rakesh, learned counsel for the petitioner and Mr. W. Darakishwor, learned Sr. PCCG assisted by Ms. Niana, learned counsel for the respondent.

[2] The petitioner approached this Court challenging the order dated 24.11.2021 passed by the Ld. Special Judge (ND & PS), Senapati in Cril.Misc.(Z) Case No. 14 of 2021 [Ref: NCB Crime No. 10/NCB,IMP/2021 dated 12.08.2021] U/S 8(c)/18(b)/25 & 29 ND & PS Act, 1985 (as amended).

[3] The petitioner is the owner of the Tata Truck bearing Regn. No. AS01DD-2757. The vehicle was allegedly seized along with the opium in connection with the case and the Zima Application under Section 451 Cr.P.C. was rejected on the ground that the petitioner, who is the owner of the seized vehicle, had full knowledge about the seized

opium and he used to transport the illegal opium in his vehicle in earlier occasions too. As such, the vehicle has to be confiscated under Section 60 (3) of the ND & PS Act, 1985.

[4] Mr. M. Rakesh, learned counsel for the petitioner, submits that the provisions of the Cr.P.C. especially Section 451 deals with the release of the seized article/vehicle during the pendency of the trial is applicable in the proceeding under ND & PS Act. In this respect, learned counsel for the petitioner relies on 9 (nine) judgments of various High Courts (i) **Hanif Uddin & Anr. vs. State of Assam & Anr.** reported as **(2023) SCC OnLine Gau 628**, (ii) **Union of India vs. Tejinder Singh** reported as **(2023) SCC OnLine Gau 729**, (iii) **Premjit Roy vs. State of West Bengal** reported as **(2023) SCC OnLine Cal 873**, (iv) **Arif Khan vs. State of Rajasthan** reported as **(2022) SCC OnLine Raj 3334**, (v) **Ashish Biswal vs. State of Chhattisgarh** reported as **(2022) SCC OnLine Chh 2596**, (vi) **Hussain Mohammad vs. State of Rajasthan** reported as **(2021) SCC OnLine Raj 865**, (vii) **Vikram Kumar Mahto vs. State of Jharkhand** reported as **(2021) SCC OnLine Jhr 1378**, (viii) **Ashok Kumar Kapoor vs. State of GNCT of Delhi** reported as **(2018) SCC OnLine Del 10277** and (ix) **Anil Navnath Marathe vs. State of Maharashtra & Anr.** reported as **(2011) 2 Mh.L.J 903**, wherein it was held that the provision of Cr.P.C. with respect to Section 451 will be applicable for releasing on Zima the seized vehicle during the proceeding under ND & PS Act. It is also pointed out in these judgments that when the vehicles used in the murder and rape case can be released on Zima, the same principle

ought to be extended in the proceeding under ND & PS Act notwithstanding the severity of the offences.

[5] Mr. W. Darakishwor, learned Sr. PCCG for the respondent, submits that if the vehicle used in transportation of the narcotic substance is released on Zima, there is likely to be used in similar offences as recorded in the impugned order passed by the Ld. Special Judge. Learned Sr. PCCG for the respondent further submits that if the petitioner is convicted after the conclusion of the Trial Court, the vehicle has to be confiscated under Section 63 of the ND & PS Act, it will cause inconvenience to the Court and the prosecution and there is likelihood of selling of the vehicle.

[6] Mr. M. Rakesh, learned counsel for the petitioner, submits that the petitioner undertakes that he will not transfer the vehicle make alteration of the Tata Truck if the same is released on Zima and will produce before the Trial Court as and when directed and he is ready to furnish sufficient bond. It is stated in the petition that the value of the Tata Truck is Rs. 5 lakhs approximately.

[7] This Court has considered the materials on record, the case law and the submissions made by the learned counsel for the parties.

[8] There is no purpose of keeping the vehicle in police custody when all the formalities have already been completed and the matter is active trial. Accordingly, the impugned order dated 24.11.2021 is set aside and the vehicle i.e. Tata Truck bearing Regn. No. AS01DD-2757 is released on Zima on the following condition that the petitioner

shall deposit the bank guarantee of Rs. 5 lakhs before the Trial Court and shall make an undertaking that the same will not be transferred or make modification without the permission of the Trial Court and will produce before the Trial Court as and when directed.

[9] With this direction, the petition is allowed and disposed of.

[10] Send a copy of this order to the Ld. Special Judge (ND & PS), Senapati for information.

JUDGE

Kh. Joshua Maring

KH. JOSHUA
MARING



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KH. JOSHUA MARING
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