

06.9.2019

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

13.
SM

C.R.R.49 of 2019

In the matter of: **Sajal Sharma.**

Mr. Arnab Mukherjee,
Mr. Hiranmoy Debnath.
.....for the petitioner.

Mr. Aditi Shankar Chakraborty,
Mr. Nilay Chakraborty.
.....for the State.

This revisional application has been preferred against the order dated 26.02.2019 passed by the learned Additional Sessions Judge, 1st Court, Cooch Behar (NDPS) in N.D.P.S. Case No.22 of 2016. From the contention advanced by the petitioner it appears that the petitioner allegedly is the constituted attorney of the heirs of the owner of the vehicle. It is reflected from the case records that 5,662 number bottles of phensedyl cough syrup were recovered from the said truck and subsequently, Boxirhat Police Station Case No.69 of 2016 dated 09.03.2016 under Section 21(C)/22(C) of the NDPS was registered for investigation and since then from 2016 the vehicle is lying at the concerned police station. It is also reflected from the records that the said case ended in conviction to one accused person and the other charge-sheeted accused being the owner of the vehicle absconded and as such the case was filed against him.

It is the submission of the learned advocate appearing for

the State that in view of Section 60 of the N.D.P.S. Act, a vehicle which has been used for the purpose of commission of offence is liable to confiscation pursuant to an offence being proved.

In view of the judgment dated 12.04.2018 passed by the learned trial Court thereby holding one of the accused (Tinku Das) guilty of the offence punishable under Section 21(C) of the N.D.P.S. Act and sentencing him to rigorous imprisonment for ten (10) years and fine of Rupees One Lakh, in default, to suffer further rigorous imprisonment for one year, I am of the opinion that the said vehicle which was intercepted for carrying the offending articles are liable to confiscation. The learned trial Court had no jurisdiction to entertain the application pursuant to the judgment being delivered. If an appeal has been preferred by the convict, in that case petitioner is granted liberty to prefer an application in connection with the said appeal.

With the aforesaid observations, C.R.R. No.49 of 2019 is dismissed.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of requisite formalities.

(Tirthankar Ghosh, J.)

