

CRR 1103 of 2020

(Via Video Conference)

Gurinder Singh

Vs.

The State of W. B.

Mr. Hillol Saha Podder

.....For the Petitioner

Mr. Aditi Sankar Chakraborty

Mr. Aniruddha Biswas

....For the State

The petitioner undertakes to affirm and stamp the petition as per the Rules within 48 hours of resumption of normal functioning of the court. The petition is taken up through videoconference on the basis of such undertaking.

By filing the instant revisional application under Section 397/401 read with Section 482 of the Code of Criminal Procedure the petitioner has sought for little relaxation of the condition passed by the trial court, while making release of the lorry, alleged to be carried with some contraband items. Adverting to the order dated 22nd July, 2019 passed by the learned Additional Sessions Judge, 1st Court, Cooch Behar (Special Court under N. D. P. S. Act), learned advocate for the petitioner submits that despite the petitioner being favoured with an order permitting release of the seized vehicle upon furnishing a bank guarantee of Rs. 75 lakhs with some other conditions, the

petitioner could not be able to arrange the huge bank guarantee amount to the tune of Rs. 75 lakhs rendering the vehicle to remain idle under the exposure of sun and rain. Learned advocate for the petitioner further submits that the vehicle being a combination of mechanical accessories, prolonged non-use of the same may cause material deterioration of the parts and the same may become unfit for use in the road. Focussing the financial crisis of the petitioner, learned advocate for the petitioner proposes for reduction of the bank guarantee amount to the tune of Rs.40 lakhs, instead of Rs.75 lakhs, in order to find release of the vehicle seized, and to make it operative and functional again after enjoying the fruits of the order, dated 22nd July, 2019 passed by the Special Court under N. D. P. S. Acts, Cooch Behar.

Learned advocate for the State submits that the trial court was right in passing the impugned order, while making release of the seized lorry, which was conditioned of furnishing a bank guarantee of Rs.75 lakhs, being worth of the value of seized vehicle. According to learned advocate for the State/opposite party there is nothing left to be decided, because the order is very clear, which was recorded having regard to the value of the seized vehicle.

The point is thus very clear that even after an order being passed on 22nd July, 2019 by N. D. P. S. Court, Cooch Behar, the petitioner could not find release of his vehicle upon furnishing a bank guarantee of Rs. 75 lakhs so as to make it operative and

functional on road. The financial stringency of the petitioner is submitted to be the only cause in furnishing the bank guarantee to the extent, as stipulated by the N. D. P. S. Court, Cooch Behar.

Upon considering the facts and circumstances of the case and also the issue raised by the petitioner to this case, the court is of the view that if the petitioner's bank guarantee is reduced to Rs.40 lakhs, instead of Rs. 75 lakhs, in order to find release of the vehicle, that will subserve the purpose of justice.

The revisional application is thus disposed of modifying and/or reducing the bank guarantee amount to Rs. 40 lakhs, instead of Rs. 75 lakhs, as recorded in order dated 22nd July, 2019 of learned Additional Sessions Judge, 1st Court, Cooch Behar with other conditions, as before in such order. The order is thus modified to the extent, as above.

The revisional application is thus disposed of.

(Subhasis Dasgupta, J.)