

19.11.2020
p.b./ab
Ct. No.13

CRR 1526 of 2020
(via video conference)

In re: Hiranmoy Saha.

.....Petitioner

Mr. Aritra Bhattacharya.

.....for the petitioner.

Mr. Arijit Ganguly,

Mr. Sanjib Kr. Dan.

.....for the State.

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

The revisionist has challenged the order dated 8.9.2020 passed by the learned Additional Sessions Judge, 1st Court, Cooch Behar in connection with NDPS Case No.43 of 2020 which arose out of Sitai P.S. Case No.73 of 2020 dated 1.7.2020 under Sections 20/29 of the NDPS Act directing thereby release their seized truck along with 450 empty LPG gas cylinders to the custody of the petitioner furnishing a bond of Rs.15 lakhs and on condition not to change the nature and character of the said vehicle as and when required. It is contended that the challenge against this order is only to this effect

there has been a direction upon the petitioner to furnish bank guarantee of Rs.15 lakhs.

I have requested Mr. Arijit Ganguly, assisted by Mr. Sanjib Kr. Dan to appear before this Court in this case. Let their appointment be regularised.

Having heard the learned advocates for the parties and in consideration of the grounds taken by the learned advocate for the petitioner and further considering the decision of the Hon'ble Supreme Court in the case of The State of Kerala Vs. A. A. Ali reported in 2019(14) SCC 800 wherein it has been held that the imposition of bank guarantee in terms of Section 45 of the Cr.P.C. is unreasonable and such practice ought to be dropped for the sake of providing justice to the owner of the said vehicle. But the proposition of law so laid down by the Hon'ble Supreme Court has not been appreciated by the learned Judge, the order impugned to that extent the condition imposed laid by the by the petitioner is liable to be set aside and quashed.

It is submitted that in this pandemic situation due to Covid-19, it would be hardship on the part of the petitioner to furnish bank guarantee. The vehicle is lying in the open compound in the police station concerned which would be subjected to vagaries of nature and it may suffer damages due to rain resulting

in loss of its commercial values, if not released immediately.

Having heard the learned advocates for both the parties and taking cue from the decision in The State of Kerala Vs. A. A. Ali (Supra), the order impugned is modified to this effect that the vehicle be returned with the articles upon furnishing bond of Rs.15 lakhs without insisting the condition of bank guarantee.

Thus, this revisional application being CRR 1526 of 2020 is disposed of.

Urgent certified copy be supplied to the parties in urgent basis on compliance of all legal formalities if applied for. Parties are given liberty to act on the website copy through server.

(Shivakant Prasad, J.)