

13.01.2021
Item no.1
Ct. No.42
CHC

C.R.R. No.974 of 2020
C.R.A.N.1 of 2020

In Re: An application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973.

In the matter of:-

Madan Mondal
.....petitioner

Mr. Shibaji Kumar Das
... for the petitioner

Mr. Swapan Banerjee,
Mrs. Purnima Ghosh
... for the State

The matter is found listed under the heading “Personal Appearance”. Today is fixed for securing personal appearance of R.T.A., Nadia.

It is submitted by Mr. Swapan Banerjee, learned advocate assisted by Mrs. Purnima Ghosh, learned advocate representing the State/opposite party that the concerned R.T.A. has been suffering from Corona and prays for time to ensure his personal appearance.

Mr. Shibaji Kumar Das, learned advocate for the petitioner submits that the old vehicle has been lying seized since 15th February, 2020. The necessary documents relating to the ownership of the vehicle seized were produced before the Investigating Officer which were admittedly verified with the appropriate authority.

From the report of the I.O., it appears that the seized vehicle had a fitness certificate up to 15th March, 2017 which bore registration of 1st January, 1985. Apparently, the vehicle seized appears to be old enough.

Learned advocate for the petitioner, Mr. Das assailing the impugned order dated 29th February, 2020 passed by learned Additional Chief Judicial Magistrate, Kalyani, Nadia in connection with Chakdah Police Station Case No.50 of 2020 dated 11th February, 2020 giving rise to a prosecution under Section 379/411 of the Indian Penal Code read with Section 4D of the West Bengal Land Reforms Act, 1955 and Sections 181/190(ii)/197/192/196 of the Motor Vehicles Act, 1988, submits that when incidental documents pertaining to registration of vehicle have been verified by I.O. concerned, the order refusing return of vehicle is against the principle of law.

The seized vehicle was found containing mud. The petitioner happens to be registered owner of the vehicle and he is also made accused in this case. Petitioner is now enjoying bail at this moment.

When the concerned R.T.A., who is due to ensure his personal appearance today, has been suffering from Corona, and when the documents produced by the registered owner of vehicle/petitioner have already been verified by the concerned I.O. of this case, in the present circumstances of the case, it would be unjust to secure the personal appearance of R.T.A having been infected with Corona virus at the moment.

The seized vehicle apparently is a combination of mechanical accessories. Long non-use of it will not only lead to the depreciation of the vehicle seized, but it will also render the vehicle unsuitable for being moved on road. For violation of the provisions of the Motor Vehicles Act, if there be any, enough remedy is there to rope the petitioner appropriately, independent of the instant prosecution, but when the vehicle was seized in February, 2020 the Court finds sufficient reasons to release the vehicle at the moment.

The appropriate authority would be however, free to take appropriate steps under the provisions of the law against the vehicle seized for any breach of the conditions of the Motor Vehicles Rule subject to providing knowledge to the petitioner.

Let there be an order directing return of the seized vehicle, found seized in connection with the case, mentioned hereinabove, subject to furnishing a bond, to be ascertained by the learned court below with conditions as may be deemed proper and appropriate. The release of the vehicle must be given effect to within three days from the date of communication of this order.

Learned advocate for the petitioner is directed to make communication of this order to the learned court below furnishing copy of the order.

With this direction, the instant criminal revisional application along with C.R.A.N.1 of 2020 is disposed of.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Subhasis Dasgupta, J.)