

CRR 1091 of 2020
With
IA No: CRAN/1/2020 (Old CRAN/3406/2020),
CRAN/2/2020

Rajkumar Tamili
Vs.
The State of West Bengal

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

Md. Sabir Ahmed
Mr. Gouranga Kr. Das
Mr. Mujibar Ali Naskar
Mr. Apan Saha
.....For the Petitioner
Md. Anwar Hossain
Ms. Sreyashee Biswas
.....For the State
Mr. Madhusudan Sur
.....Special Officer

The impugned order dated 9th August, 2019 passed by learned Additional Chief Judicial Magistrate, Kakdwip, South 24 Parganas in connection with G. R. Case No. 1412 of 2018 under Section 46A(c) of the Bengal Excise Act, 1909 rejecting handing over the possession of the factory unit belonging to petitioner is the subject of challenge in this revisional application.

By the previous order dated 6th January, 2021, Mr. Madhusudan Sur, learned advocate was appointed as Special Officer in this case directing him to furnish the report as to whether the seized materials could be kept in a separate place, and the rest of the place could be allowed for usage of the petitioner after holding inspection over the building lying seized.

Mr. Sur is present with a report. Let the report be kept on record. Pursuant to the directions of this court Mr. Sur has held his inspection over the building. According to the report of Mr. Sur, the seized materials are lying in room nos. 3 and 4 respectively on the left side of the ground floor of the building. The building is stated to be three-storied one. Mr. Sur has proposed that the seized materials could be safely accommodated in one of the rooms instead of keeping in two rooms, and thus one of the two rooms may be vacated and allowed to be handed over for usage of the petitioner.

The petitioner seeking usage of the entire building is a registered businessman having a manufacturing unit for homeopathic medicine in the building seized. He had a licence record for the purpose issued from Excise Department. The principal allegation surfaced against the petitioner is that though he was supposed to manufacture homeopathic medicine, but in contravention of the terms of the licence, he procured spirit of alcohol from unconventional sources, and conducted utilization of spurious alcohol in the manufacturing unit for making alteration of the strength of the homeopathic medicine with an oblique motive. Several items alleged to have contravened the terms of the licence are found seized in this case, which are kept deposited in room nos. 3 and 4 of the first floor of the building belonging to the petitioner. There is no dispute between the parties with regard to the ownership of the petitioner.

Learned advocate Md. Anwar Hossain representing the

State/opposite party submits that the court may dispose of the instant revisional application keeping sufficient accommodation for the safe custody of the seized alamats, otherwise there is a chance of being prejudiced. It is further submitted projecting the conduct of the petitioner alleging that several cases are pending against the petitioner, for which his licence was terminated by the authority concerned keeping in view the chequered conduct of the petitioner. Major portion of the building has already been ordered by the court below enabling petitioner to make use of, except the two rooms referred above.

Having considered the rival submissions of the parties and after perusal of the report of the Special Officer, it appears to this court that seized items could be safely accommodated in one of the two rooms lying seized. The court finds no justification to keep those items in two rooms preserved, irrespective of the contravention of the terms of the licence granted to petitioner.

Learned advocate Md. Sabir Ahmed for the petitioner submits frankly that seized alamats may be kept preserved in room no.3, instead of keeping two rooms seized, and room no.4 accordingly may be vacated to the petitioner. When there is specific choice exercised by the learned advocate for the petitioner, the court feels that same should be respected keeping in view the entire report of the Special Officer, particularly when there is no dispute with regard to the ownership of petitioner over the entire building. The seized alamats, thus, to be kept preserved in room no.3 and vacate the room no.4 on the left side

of the ground floor to petitioner after the entire exercise is done within a fortnight from the date of communication of this order.

Learned advocate for the State/opposite party is directed to make communication of this order to the concerned Investigating Officer of this case so that the entire exercise could be safely conducted upon notice to the petitioner within the date as stipulated hereinabove.

With these directions and observations the revisional application and all connected application stand disposed of.

With the submission of the report, the Special Officer is accordingly discharged.

(Subhasis Dasgupta, J.)