

04.02.2021
Sl.No. 05
Court No. 35
P.A/A.P

C.R.R 3772 OF 2019

Sangita Maity
Vs
State of West Bengal

Mr.Koustav Bagchi

...for the Petitioner

Mr. Prasun Kumar Dutta
Md. Kutubuddin

...for the State

Parties are represented.

The petitioner is aggrieved by order dated 03-09-2019 passed by the Court of Learned Additional District & Sessions Judge, Barrackpore, 24 Pgs (N), being Special Judge under the N.D.P.S Act. 1985, in connection with N. Case No. 50 of 2018 arising out of Barrackpore Police Station Case No. 50 of 2018 dated 19-04-2018 under sections 20(b) of the N.D.P.S Act, 1985.

It is submitted on behalf of the petitioner that written complaint was lodged on 19-04-2018 against accused Manoj Routh alias Suku alleging commission of offence punishable under section 20(b) of the N.D.P.S Act. It was alleged that on the relevant date the accused person was apprehended with about 25 kgs 300gms of ganja in his possession which was kept in a motorcycle. The accused was arrested and the contraband and motorcycle seized. Charge sheet was submitted in the case against the accused and the case is pending trial.

It is further contended that the petitioner is the registered owner of the motorcycle which was used by the accused at the relevant time and the petitioner has no nexus with the case pending against the accused. The petitioner filed an application before the learned trial court praying for return of the motorcycle which was turned down by the learned court by the order impugned.

The petitioner has assailed the said order and has prayed for return of the vehicle in her favour.

It prima facie appears from the material on record that one Manoj Routh has been arrested in connection with the criminal case being N Case No. 56 of 2018 pending before the learned trial court and charge sheet has been submitted against the accused therein. The petitioner does not appear to have been arrayed as an accused in the criminal case and claims that she is the registered owner of the motorcycle seized by the police in connection with the case.

The proposition of law with regard to return of conveyance used in carrying narcotic drug is laid down under section 60(3) of the Act of 1985 which is set out:

60(3) "Any animal or conveyance used in carrying any narcotic drug or psychotropic substance shall be liable to confiscations, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use."

In the present case, whether the petitioner had any knowledge or connivance with regard to user of the vehicle by the accused for alleged transportation of contraband shall be determined by the learned trial court in course of trial. In the meantime, the vehicle may be returned to the petitioner upon execution of bond by her and on terms and conditions found appropriate by the trial court upon ascertaining her ownership in respect of the vehicle, in order to avoid depreciation/damage of the vehicle while under detention.

The State/Opposite party has no objection if the vehicle is returned to the petitioner on appropriate terms and conditions.

Accordingly order dated 03-09-2019 passed by the Learned Additional District & Sessions Judge, Barrackpore, District- North 24 Parganas being the Special judge, under N.D.P.S Act, 1st Court

Barrackpore in connection with N. Case No. 56 of 2018 is set aside.

The vehicle be returned to the petitioner upon execution of bond to the satisfaction of the learned trial court on terms and conditions found appropriate by the trial court upon ascertaining her ownership in respect of vehicle. The petitioner shall produce the vehicle before the learned trial court as and when called for by the court.

CRR 3772 of 2019 is disposed of accordingly.

Urgent certified website copies of this order, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

(Suvra Ghosh, J)