

23.09.2022

Sl. No. 02

Srimanta

Ct.No. 42

CRR/921/2022

In the matter of : **Meenakshi De**

...petitioner.

Mr. Apalak Basu, Adv.

...for the petitioner.

Mr. Saswata Gopal Mukherjee, Ld. P.P.,

Mr. Imran Ali, Adv.,

Mrs. Debjani sahu, Adv.

...for the State.

The petitioner is a registered owner of a private car having Registration No. WB06P0233.

It is not in dispute that the petitioner authorized in writing her husband, Prabir Kumar Dey to handle and maintain the aforesaid vehicle. While as such the said vehicle was intercepted by Police attached to the Detective Department, Narcotic Cell on 19th February, 2021. There were three persons inside the said vehicle at the time of interception. Amongst them, the husband of the petitioner was one. It is the case of the prosecution that on search Police recovered narcotic substance from the possession of the said persons who were travelling by the said car having non-commercial quantity. A case was registered under Section 21(6)/29 of the NDPS Act against the said three apprehended persons. During investigation, it transpired that the apprehended persons were not the real culprits and final charge-sheet was filed against eight other persons under Sections 27A/29/30/58(2) of the NDPS Act and the Investigating Officer prayed for the discharge of the said three apprehended persons. After taking cognizance of offence, the Learned Special Judge considering the charge-

sheet and the case diary was of the opinion that materials-on-record are sufficient to implicate the said three persons including the husband of the petitioner. Thus, the Learned Special Judge has held that along with eight charge-sheeted persons the said three persons are also liable to be prosecuted.

The said order is under challenge before this Court at the instance of the said three persons who were initially apprehended from the car.

At this stage, the present petitioner being the owner of the seized vehicle filed an application praying for return of the seized vehicle in the Trial Court.

The Learned Special Judge refused to return the seized vehicle on the ground that the said vehicle is an exhibit in connection with NDPS Case No. 17/2021 pending before this Court and secondly, the said vehicle does not fetch basic livelihood of the petitioner.

The aforesaid order dated 4th February, 2022 is under challenge in the instant revision.

Learned Public Prosecutor-in-Charge has submitted a report of the Investigating Officer who has raised objection against the prayer for releasing the vehicle on bond during trial on the ground that the said vehicle is an important exhibit. Secondly, Cocaine was recovered from different parts of the vehicle and if the seized vehicle is released the prosecution case will suffer.

I have heard the Learned Advocate for the petitioner as well as the Learned Public Prosecutor-in-charge. The Learned Public Prosecutor-in-Charge has submitted at his best to ventilate the objection raised on behalf of the prosecution against release of the vehicle.

This Court concurs with the submission made by the Learned Public Prosecutor-in-charge that the said vehicle is an exhibit in NDPS Case No. 17/2021. As per the prosecution

narcotic substances were recovered from different parts of the said vehicle. It is further submitted by the Learned Public Prosecutor-in-Charge that the seizing authority may initiate a confiscation proceeding in respect of the said vehicle.

Be that as it may, it is not in dispute that the said vehicle is detained in a stationary condition under the control of the Narcotic Cell, Detective Department. The owner of the vehicle/petitioner herein has not been implicated in the NDPS Case. From the charge-sheet it appears that narcotic substance of non-commercial quantity was recovered from the vehicle.

Therefore, I do not find any reason for raising objection against release of the said vehicle. If the seized vehicle is directed to be released with the condition that the petitioner shall not be permitted to transfer the said vehicle during pendency of the case to any third person, produce the same as and when call for before the Court or before the Investigating Officer for the purpose of the case and shall not be permitted to change the nature, character, colour and present get up of the vehicle, prosecution will not be prejudiced at the time of trial to use the seized vehicle as alat if the same is required at all.

In view of what has been stated above, I have no other alternative but to hold that the impugned order dated 4th February, 2022 passed by the Learned Special Judge-cum-Additional Sessions Judge, 4th Court at Alipore rejecting the petitioner's application for return of the said vehicle.

The impugned order is, thus, set aside.

The revisional application is allowed. The Learned Trial Judge is directed to release the vehicle on sufficient bond and imposing the conditions laid down hereinabove in favour of the petitioner within one week after Vacation on the basis of

the server copy of the order that may be placed by the parties before him.

The instant revision is, thus, disposed of.

(Bibek Chaudhuri, J.)