

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 1736 of 2022

**Malay Kumar Hazra
Vs.
State of West Bengal**

Mr. Arindam Jana
Mr. Panchanan Hajra
...for the petitioner

Mr. Ranabir Roy Chowdhury
Mr. Sandip Chakraborty
..for the State

Item No.28

Heard & Judgment on: 27.09.2022

Bibek Chaudhuri, J.

On the basis of a suo motu complaint filed by a police officer attached to Goghat Police Station, FIR No.93 of 2022 dated 13th April, 2022 was registered against one Abhijit Ghosh, driver of a six wheeler

truck bearing Registration No.67B-3561. In the FIR it is alleged that the complainant along with other officers of the force were conducting 'naka' duty with the jurisdiction of police station and in course of their duty on 13th April, 2022 they detained one six wheeler truck bearing Registration No.67B-3561 loaded with river bed sand at about 8.05 p.m. The complainant asked the driver to produce valid documents in respect of transportation of river bed sand. He produced the road e-challan of the river bed sand which was found to have expired at the time of seizure.

It is submitted by the learned advocate for the petitioner drawing my attention to the documents annexed with the supplementary affidavit that the road e-challan for river bed sand was actually issued in favour of the petitioner and was valid till 13th April, 2022 up to 8.32 A.M. However, there was some mechanical difficulty found in the said truck after loading river bed sand. The truck was repaired in a local garage and after repairing, the driver was driving the truck at night when it was intercepted.

It is further submitted on behalf of petitioner that the learned Additional Chief Judicial Magistrate, Arambagh, Hooghly rejected the prayer of the petitioner for return of the seized truck on the ground that the learned Magistrate was not competent to take cognizance of offence under Section 4(1)(A) of the Mines and Minerals

(Development and Regulation) Act, 1957. As per provision of the said Act only the Special Court can take cognizance of the offence under the said Act and, accordingly, the Special Court has the exclusive power to dispose of seized vehicle.

It is submitted on behalf of the petitioner that since charge sheet has not been submitted in the said case, the learned Magistrate was authorized to pass any order releasing the vehicle. Moreover, the Investigating Officer has submitted a report stating his 'no objection' if the seized truck was released in favour of the petitioner.

It is important to note here that Section 21(4A) of Mines and Minerals (Development and Regulation) Act, 1957 states that any mineral, tool, equipment, vehicle or any other thing seized under sub-Section (4) shall be liable to be confiscated by an order of the Court competent to take cognizance of the offence under sub-section (1) and shall be disposed of in accordance with the directions of such Court.

At this stage, learned P.P.-in-charge submits that when the Investigating Officer has endorsed 'no objection' if the seized truck was returned to the petitioner, the said vehicle may be returned to its registered owner on his executing a bond with further directions that he will produce the seized vehicle as and when call for by the learned

Special Court at the time of trial and must submit seized truck if at all any confiscation proceeding is initiated by the trial Court.

In view of such submission, the impugned order dated 10th May, 2022 is set aside. The seized truck be returned to the petitioner on his executing a bond of Rs.15 lakhs with further condition that he will not change nature and character of the vehicle during the pendency of G.R. Case No.402 of 2022 and also will not create any third party interest over the said vehicle and produce the vehicle as and when call for by the learned Special Judge during trial. The petitioner is further directed to produce the seized vehicle before the learned Special Judge if any confiscation proceeding is initiated in connection with G.R. Case No.402 of 2022 by the trial Court.

With the above order, the instant revision is disposed of.

(Bibek Chaudhuri, J.)