

CRR 1792 of 2020

In the matter of: Sri Sujit Kumar Biswas

....petitioner.

Mr. Susnigdho Bhattacharyya

...for the Petitioner.

Mr. Prasun Kumar Dutta

Md. Kutubuddin

Mr. Santanu Deb Roy

... for the State.

Feeling aggrieved and dissatisfied with the order dated December 2, 2020, passed in C. Case 12/2020, by Ld. Additional Chief Judicial Magistrate at Bongaon, present revisional application has been preferred.

The allegation levelled is on February 6, 2020 a team of officers intercepted one TATA 709 bearing No. WB 25E 8764 at Praphullnagar Sahapara Math, Post Office- Bongaon which was carrying illegally total 253 number of live Indian soft shelled turtles and 61 numbers dead of soft shelled turtles. Accordingly, on interception the said turtles were recovered and seized and the driver and helper of the truck were arrested and they were produced before the learned Magistrate and subsequently, they were released on bail by the learned Magistrate.

The petitioner claimed himself to be the owner of said TATA 709 bearing No. WB 25E 8764 which was seized by the Seizure Officer in connection with Complaint Case No.POR-06/BNG of 2019-20 dated February 6, 2020.

It is contended by petitioner that seized articles were loaded in the said vehicle without informing the owner of the vehicle. On

November 18, 2020, the petitioner filed an application under Section 451 of the Code of Criminal Procedure before the learned Magistrate for releasing of the seized truck. After hearing respective parties and after perusing the prayer of the enquiry officer for an order of confiscation, the learned ACJM by an order dated December 2, 2020 has been pleased to reject the petition for returning the seized vehicle. Learned Magistrate further opined that the goods recovered are required to be confiscated under the provisions of the Indian Forest Act.

Mr. Bhattacharyya on behalf of petitioner contended that the vehicle is the only source of income of the petitioner and the seized truck is being kept in an uncared manner under the open sky and accordingly prayed for releasing of the vehicle in question in any terms and conditions.

In this context the petitioner has also relied upon judgments reported in (2004) 1 SCC 293, 2003 C Cr LR (Cal) 929, (2016) 4 CHN (cal) 713 and also three unreported judgments passed by this Court in CRR 1882 of 2019, CRR 537 of 2020 and CRR 695 of 2012.

Having considered the facts and circumstances of the case it appears to me that there is no necessity to keep the said vehicle under the open sky to get it damaged further and no purpose will be served by making it junk day by day.

Accordingly, learned ACJM, Bongaon is directed to grant interim custody of the vehicle in question to the petitioner on condition that the petitioner will execute a bond of Rs.10,00,000/- along with bank guarantee of Rs.10,00,000/- before the learned Magistrate. The petitioner will also file a coloured photocopy of the

vehicle signed by both the investigating agency and the registered owner. The petitioner shall also file an undertaking before the court below that he shall produce the vehicle when it would be asked to produce either for the trial or for confiscation proceeding and petitioner will not change the basic nature and character of the vehicle without taking leave of the court.

CRR 1792 of 2020 is accordingly disposed of.

The office of the Legal Remembrancer is directed to regularize the appointment of Mr. Prasun Kumar Dutta along with Md. Kutubuddin and Mr. Santanu Deb Roy in this matter.

(Ajoy Kumar Mukherjee, J.)