

D/L10  
16.09.2022  
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IN THE HIGH COURT AT CALCUTTA  
CIRCUIT BENCH AT JALPAIGURI

In Re: An application under Section 482 of Code of  
Criminal Procedure, 1973;

C.R.R 108 of 2022

Md. Sahjalal Ali  
Versus  
The State of West Bengal and another

Mr. Aniruddha Biswas,  
Mr. Sourav Sarkar.  
...for the petitioner.

Mr. Aditi Shankar Chakraborty,  
Mr. Ujjwal Luksom.  
...for the State.

Report submitted by the learned advocate for the  
State be kept with the record.

The petitioner has challenged the order dated  
06.01.2022 passed by the learned Sessions Judge, Cooch Behar.  
Learned Sessions Judge, Cooch Behar relied upon Section 64 of  
the Bengal Excise Act, 1909 to affirm the order of the learned  
Magistrate refusing to release the vehicle.

The proviso of Clause 63 of the Bengal Excise Act  
states as follows:

“Provided that no animal, cart, vessel, raft or  
other conveyance as aforesaid shall be liable to  
confiscation unless the owner thereof is proved to  
have been implicated in the commission of the

offence.”

Learned advocate for the State submits that the present petitioner is not implicated as an accused in the instant case. The investigation of the case has already been concluded.

Having regard to the same that the present petitioner is not involved in the offence, I direct the learned Chief Judicial Magistrate, Cooch Behar to give interim custody of the vehicle to the petitioner after the documents relating to the vehicle are produced before the said court. The terms and conditions for return of the vehicle would be decided by the learned Chief Judicial Magistrate, Cooch Behar as he thinks fit and proper.

With the aforesaid observations, CRR 108 of 2022 is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copies of this order, if applied for, be given to the parties, upon compliance of all requisite formalities.

**(Tirthankar Ghosh, J.)**