

Form J(1)

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

Present :

The Hon'ble Justice Bibek Chaudhuri

C.R.R. 986 of 2023

Motahar Hossain

Vs.

State of West Bengal

For the petitioner : Mr. Kalidas Saha, Adv.

**For the State : Mr. Saibal Bapuli, Adv.
Mr. Bibaswan Bhattacharya, Adv.**

Heard on : 15.05.2023.

Judgment On : 15.05.2023.

Bibek Chaudhuri, J.

It is submitted on behalf of the petitioner that in connection with NDPS case No.39 of 2021 arising out of Baishnabnagar Police Station Case No.190 of 2021 dated 4th May, 2021 under Sections 22(c)/27(A)/28/29 of the NDPS Act, one ten wheeler truck was seized with narcotic substances. Subsequently, the petitioner was arrested and petitioner's car was seized. Petitioner's car bearing No.WB66AJ/9303 was seized.

It is submitted on behalf of the petitioner that no contraband articles was seized from the said car. The said car was not used for carrying any narcotic substances. Therefore, the petitioner has prayed for release of the said car. However, by passing the impugned order, learned Special Judge, Malda rejected the said prayer.

Mr. Bapuli, learned Advocate appearing on behalf of the State of West Bengal, on the other hand, submits a police report and the case diary. The police report says that accused Motahar Hossain and Sairem Merina @ Merina, a citizen of Manipur boarded the said car and proceeding towards some unknown destination. As they are fully involved in the crime under the NDPS Act, it is presumed that the above noted car was also used in smuggling of contraband narcotic articles like Yaba Tablets.

The learned Advocate for the State also produced the case diary showing the statement of some of the witnesses and the accused.

Having heard the learned Advocate for the parties, this Court is of the view that the statement of the accused is not admissible in evidence.

It is not disputed that no contraband articles was found in the said car. For the alleged involvement of the petitioner, his personal car cannot be seized by the police.

Under such circumstances, the instant revision is disposed of directing the learned Special Judge to reconsider the petition filed by the petitioner for release of the said truck bearing No.WB66AJ/9303.

In view of the above order, the impugned order is set aside.

The learned Special Judge is at liberty to impose necessary conditions as he deems fit for the purpose of production of the car during trial, if necessary, as prayed for by the prosecution.

The report submitted by the Investigating Officer be kept with the record.

(Bibek Chaudhuri, J.)