

April 17, 2023
AD – 32
Ct. 34
SG

CRR 1661 of 2021

In Re. An application under Section 397/401
read with Section 482 of the Code of
Criminal Procedure, 1973.

Astami Thakur
-versus-
The State of West Bengal and others

Mr. A. Ahammed
... for the petitioner

Mr. Rudradipta Nandy, ld. APP
Ms. Manisha Sharma
... for the State

Ms. Aiswarjya Gupta
Ms. Priyanka Saha
... for the opposite party No.5

The revisional application was preferred challenging the order dated 12.05.2021 passed by the chief Metropolitan Magistrate, Kolkata in connection with Reference No.S.I. No.03/2021 dated 23.01.2021 under the relevant provisions of the Bengal Excise Act wherein learned CMM was pleased to reject the prayer for return of the vehicle.

I find from the order dated 12.05.2021 that the revisional application was preferred at stage when learned CMM, Calcutta granted liberty to the petitioner to approach the Excise Collector for release of the vehicle as per law. The report was also called for. Earlier a report was also called for by this Court when the Excise Department raised objection for return of the vehicle.

The main ground of objection in relation to the prayer for return of the vehicle was the complicity of the petitioner in connection with the instant case. The excise officers

would bring to the notice of the Court if they have powers regarding confiscation and they have exercised such power. In case such a power has not been exercised and the vehicle is unnecessarily lying and as the case was initiated in the year 2021, I am of the view that the same should be released in favour of the person in whose name the vehicle has been registered and the Regional Transport Authority's document reflects the name of the registered owner in the government record.

If learned Magistrate decides to release the vehicle, then he will impose such condition that the vehicle is produced on the relevant occasions as and when learned Trial Court deems fit and proper.

With the aforesaid observations, CRR 1661 of 2021 is disposed of.

Pending application, if any, is consequently disposed of.

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

(Tirthankar Ghosh, J.)

