

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

**Before:
The Hon'ble Justice Jay Sengupta**

C.R.R.83 of 2023

**Punam Pradhan
Vs.
The State of West Bengal**

For the Petitioner	: Mr. S. Das, Adv.,
For the State	:Mr. Aditi Shankar Chakraborty, Adv. Mr. Anjan Chowdhury, Adv.
Heard on	: 8 th June, 2023
Judgment Dated	: 8 th June, 2023

Jay Sengupta, J.: This is an application challenging the order dated 27.9.2021 passed by the Learned Judge, Special Court constituted under NDPS Act at Jalpaiguri in NDPS Case No.57 of 2020 arising out of Jaigaon Police Station Case No.247 of 2020 under Section 17 of the NDPS Act, thereby rejecting the prayer for release or return of the offending vehicle to the petitioner.

Learned counsel appearing on behalf petitioner is the owner of the offending vehicle seized in connection with the present case. She is not an accused in the said case the seizure of the vehicle was effected on 10th October, 2020. Trial has not started as yet. The vehicle is in the custody of the police. No reason was cited whatsoever for rejecting

petitioner's prayer for the fact that the State has objected to such relief. In support of his claim, he places reliance on the case of **Sunderbhai Ambalal Desai v. State of Gujarat** reported in **(2002)10 SCC 283**.

Learned Counsel appearing on behalf of the State relies on the case diary and submits that a prima facie case is made out. In fact, the alleged contraband was seized from the vehicle. In the objection filed by the investigating officer before the trial court he claimed that the vehicle was purchased from the profit made from the illegal business of the accused.

I have heard the learned counsel for the parties and perused the revision petition and the case diary.

It is indeed quite surprising that the learned Special Court rejected the prayer for release of the Vehicle simply because of the investigating officer had raised objection for such return, that too after so many months of seizure of such vehicle. The order should have been supported with adequate reasoning.

As the adjudication on the point of release of vehicle would require dealing with relevant facts in further details for the first time, this Court desists from embarking upon such an exercise.

In view of the above and in the interest of justice, I set aside the order and remand back the matter to the learned Magistrate to decide

the issue of return of vehicle afresh after giving opportunity of hearing to both the parties and in the light of the decisions passed by the Hon'ble Apex Court in this regard.

With these observations, the revisional application is disposed of.

Urgent Xerox certified copy of this order, if applied for, be supplied on priority basis.

(Jay Sengupta, J.)