

Item No.6
12.08.2024
Court. No. 9
GB

W.P.A. 8271 of 2024

Anuj Kumar Roy
Vs.
The State of West Bengal & Ors.

Mr. Abdar Rakib,
Mr. Sharman Sarkar

...for the Petitioner.

Mr. Anirban Ray, Ld. G.P.
Mr. Tanoy Chakraborty,
Mr. Debraj Sahu

...for the State.

1. The petitioner seeks release of a vehicle, of which the petitioner claims to be the owner. The vehicle was seized in terms of Section 63 of the Bengal Excise Act, 1909 (hereinafter referred to as the 'said Act'). It appears that a detention order was also passed by the Collector of Excise.
2. The petitioner submits that the law provides for release of the vehicle upon payment of a penal amount in terms of Section 65(1)(b) of the said Act. The petitioner seeks to avail of such provision of law and prays for a direction upon the authorities to release the vehicle upon payment of the required sum.
3. The detention order under Section 78(2) of the said Act has been passed by the Collector of Excise, Howrah. The order records that 400 litres of I.D. Liquor was found in a four wheeler which was a LGV Goods Carrier Vehicle, of make and model "Ashok Leyland Bada Dost. 20 polythene jars, each containing

20 litres of ID liquor was intercepted. The intercepted liquor was allegedly liable for confiscation as there was transportation of such intoxicants without any valid document. This was in contravention to Sections 10, 12, 18(1) of the said Act. The seized vehicles and intoxicants have since been kept in the safe custody of the excise department.

4. The learned Government Pleader submits that the vehicle with intoxicants could not be returned as three different individuals claimed ownership thereof.
5. A person who was in possession of the vehicle has also been defined as the 'owner' under the statute. Apart from the petitioner, a person to whom the petitioner had allegedly leased out the vehicle for business purpose and a third individual approached the authority with the same prayer claiming to be the owner.
6. Thus, this court cannot direct immediate release of the vehicle. The confiscation proceedings are continuing. Thus, the writ petition is disposed of by directing the Collector of Excise to treat the writ petition as an answer of the petitioner to the confiscation proceedings and dispose of the proceedings in accordance with law, upon hearing the petitioner and the two other individuals who allegedly have also claimed ownership. Upon such hearing and upon allowing all parties to file documentary evidence

in support of their individual claims to ownership/possession of the vehicle in question, a reasoned order will be passed. The petitioner will be represented by a learned advocate. The question of return of vehicle will also be considered in these proceedings.

7. Accordingly, the writ petition is disposed of.
8. However, there will be no order as to costs.
9. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)