

01.05.2024
SL. 32
Court No. 42
Suvayan

C.R.R. 2825 of 2016

In Re: - An application under Sections 397/401 read with Section 482 of the Code of Criminal Procedure and read with under Article 227 of the Constitution of India.

And

In the matter of: **Noor Hasan @ Noor Hasan Ansari**
....petitioner.

Mr. Sauradeep Dutta
...for the petitioner.

Mr. Rana Mukherjee
Mr. Rahul Ganguly
...for the State.

Learned Advocate for both the parties are present.

The status report of TR No. 26 of 2015, Sankrail P.S. Case No. 393 of 2015 dated June 2, 2015 under Section 20(b) of the NDPS Act, 1985 has been submitted by learned Advocate for the State from which it appears that the trial of this case is in progress, four witnesses have been examined and six are yet to be examined. Next date for the evidences have been fixed on May 7, 2024.

Let this status report be taken on record.

The instant revisional application is directed against the order dated October 6, 2015 of Ld. Additional Sessions Judge cum Judge Special Court, NDPS, Howrah, whereby Ld. Trial Judge has rejected the prayer of the petitioner as to the release of his vehicle which was alleged to used in the said offence.

Being aggrieved by the said order, petitioner preferred this revisional application on the ground that necessary legal formalities have not been followed by Ld. Trial Court in passing the impugned order.

Learned Advocate for the petitioner submits that he

challenged the order dated October 6, 2015 passed by learned Judge Special Court under the NDPS Act, 1985 in connection with this case pending before him. He prayed for release of his black coloured Honda C.B. Trigger motorcycle bearing No. UK07BG0616 (as it appears in the seizure list) which was used in this connection with the alleged offence but the said prayer was rejected by learned Trial Court by observing that:

“From the provision of Section 60(3) it is clear that an intital burden is upon the owner/petitioner to prove that the vehicle in question was used in carrying the contraband without his knowledge and connivance. Not to say of the evidence even there is no statement from the side of the petitioner/owner of the vehicle that the vehicle was used by the accused Md. Samir without his knowledge in carrying the contraband. The seizure-list clearly reveals that seizure of commercial quantity of ganja has been made from the possession of the accused which was being carried on the said motor cycle of the petitioner. there is no explanation in the application for return, how the accused acquitted to the petitioner/owner of the vehicle and in which manner the possession of the motor cycle was acquired by the accused on which the seized contraband was carried by the accused.”

The said seized vehicle is still under judicial custody since 9 years. The trial of this case is in progress.

Learned Advocate for the State supports the submission for the petitioner.

Prima facie, I do not find any inconsistency or irregularities in

this order. So, I do not think that any intervention of this Court is required.

Accordingly, the revisional application being CRR 2825 of 2016 is dismissed, however the petitioner is at liberty to file fresh application before the Ld. Trial Court for appropriate relief. Learned Trial Court may consider on his prayer in the light of present facts and circumstances and in accordance with the relevant provisions of law and prevalent rules.

The application, if any, is also disposed of.

The interim order, if any, stands vacated.

Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard

(Uday Kumar, J.)

