

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Md. Shabbar Rashidi

C.R.R. 80 of 2024

**Anwarul Haque
Vs.
The State of West Bengal**

For the Petitioners : *Mr. Satarudriya Mukherjee*

For the State : *Mr. Aditi Shankar Chakraborty, Ld. A.P.P.
Mr. Aniruddha Biswas*

Heard on : 01.10.2024

Judgement on : **05.10.2024**

MD. SHABBAR RASHIDI, J. :

1. The petitioner, Anwarul Haque has filed the instant revisional application, seeking quashing of the criminal proceeding, arising out of Pulbazar Police Station Case No. 20/2022 dated July 20,

2022 under Section 46A (C) of Bengal Excise Act, 1909, corresponding to C.R. Case No. 03 of 2023.

2. The factual background of the instant case is that, in the night of July 19-20, 2022 at about 23:15 hours, the complainant along with others were on mobile duty. During such duty, they found two vehicles coming from Karmater area, proceeding towards Goke Bazar. The vehicles were intercepted by the Police party at Garvetar Zero Point. On search, the vehicles were found to contain huge quantity of illegal wines. The drivers and other persons in the vehicles failed to produce any valid document for the possession of the said articles. Accordingly, the vehicles along with the illegal wine were detained and seized. The drivers and the other persons present in the vehicles were arrested.

3. On the basis of such complaint lodged by the de facto complainant, the instant case was initiated against three F.I.R. named accused persons under Section 46A (C) of Bengal Excise Act.

4. It has been submitted on behalf of the present petitioner that he was not arrested from the seized vehicle. Nothing was recovered from the possession of the present petitioner. He was also not named in the First Information Report. Nevertheless, he was arraigned as an accused in the Prosecution Report. Subsequently, the petitioner voluntarily surrendered before the Court and was enlarged on bail. The petitioner submits that he is totally innocent having not committed any offence at all. He has been falsely implicated in connection with the instant case.

5. Hence, by filing bail, the instant revisional application, the petitioner has prayed for quashing of the criminal proceeding, arising out of Pulbazar P.S. Case No. 20 of 2022, as against him.

6. On the other hand, Ld. Advocate for the State has submitted that the present petitioner is a habitual offender. Moreover, the petitioner happens to be registered owner of one of the vehicles, seized with illegal liquor. The Prosecution Report submitted by the Officer-in-Charge of the Darjeeling Excise Circle demonstrates that the petitioner has been arraigned as an accused

in connection with this case. The Ld. Advocate for the State draws the attention of the Court to the Prosecution Report submitted after due investigation. It has been submitted in such Prosecution Report that the present petitioner was previously arrested several times, in connection with other criminal cases. The Prosecution Report thus discloses that the petitioner is a habitual offender with regard to the cases involving Excise Act and other criminal cases as well.

7. As noted above, huge quantity of illegal liquor was recovered from the vehicles involved in the transportation of illegal liquor. Three persons were arrested in connection with the transportation of such liquor. It is a fact that the present petitioner was not named in the complaint lodged by the Officials of the raiding party. He was also not named in the First Information Report. However, upon due investigation of the case, a Prosecution Report was submitted by the Officer-in-Charge of the Darjeeling District Sadar Excise Circle. Such Prosecution Report goes to show that the present petitioner being at Serial No. 04 in the Prosecution Report, was also arrested in connection with G.R. Case No. 448 of 2016

with vehicle bearing Registration No. WB 73B/7648. The present petitioner was also arrested with vehicle bearing Registration No. WB 73C/7168, in connection with C.R. Case No. 33 of 2022. The Prosecution Report also discloses that the present petitioner and another accused were habitual offenders.

8. Be that as it may, though the petitioner has not been named in the First Information Report, his name appeared in the Prosecution Report. From the contents of the revisional application, it transpires that it is an admitted position that the petitioner was the registered owner of one of the vehicles seized by the raiding party, which was used for the transportation of illegal liquor being the pick-up van having Registration No. WB 73B/7648.

9. For the aforesaid reasons, the present petitioner has been arraigned as an accused in the Prosecution Report, submitted by the authorities. Being arraigned as such, the petitioner surrendered before the Court and obtained bail in connection with the instant case. It is a fact, the petitioner was not arrested at the spot with the illegal liquor, but the petitioner cannot deny his

liability as the owner of the vehicle which was used for the purpose of carrying contraband articles. The petitioner has claimed that such transportation was being made without his knowledge and consent. Such fact, whether the illegal liquor was being transported through a vehicle, registered in the name of the present petitioner, with or without his knowledge and consent, is a matter to be decided at the trial. It is in this context, the petitioner has been arraigned as an accused in the Prosecution Report to stand trial.

10. In the light of the aforesaid discussions and in view of the fact that the present petitioner is admittedly the owner of the pick-up van which was seized while carrying illegal liquor, I find no merit in the instant application. Accordingly, the revisional application, being C.R.R. 80 of 2024 is hereby considered and dismissed, without any order as to cost.

(Md. Shabbar Rashidi, J.)