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Ct. No. 3

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction**

**C.R.R. 209 of 2024
Sri Vijay Kumar Sharma
Vs.
The State of West Bengal**

<i>Mr. Amit Lal Chakravarti</i>	
<i>Mr. Bapi sarkar</i>	
<i>Mr. Chayan Moni Bhowal</i>	<i>...For the Petitioner</i>
<i>Mr. Nilay Chakraborty</i>	
<i>Mr. Abhijit Sarkar</i>	<i>...For the State</i>

This application pertains to an order dated 10th June, 2024 passed by the learned Additional Chief Judicial Magistrate in G.R. Case No. 1074 of 2024 whereby the Court below was pleased to allow the petitioner’s prayer for return of the seized article, namely, Breezer which was loaded in the offending vehicle, on execution of a Bond of Rs. 10 lakhs and also on condition that the petitioner shall not sell and/or dispose of the said seized articles during the pendency of the case and will produce the same before the Court as and when called for by the Court at his own costs.

Mr. Amit Lal Chakraborty, learned Counsel appearing on behalf of the petitioner submits that the present case, being G.R. Case No. 1074 of 2024 had arisen out of a road accident where the victim

succumbed to his injury and for which the accused has been booked under Section 279/304A of the Indian Penal Code. The seized articles has got no connection with the alleged offence and it should be returned unconditionally but instead of that, Court has imposed onerous conditions.

Learned Counsel for the petitioner in this context relied on decisions in the case of *Sunderbhai Ambalal Desai Vs. State of Gujarat*, reported in, (2002) 10 SCC 283.

Learned Counsel appearing on behalf of the State submits that from the facts and circumstances of the case it appears that the offence is connected with the vehicle and as such seized article which was loaded in the said vehicle has got no connection with the alleged offence and as such State has got no objection, if the said seized loaded articles, namely, Breezer, are returned to the petitioner along with concerned documents.

I have considered the submissions made on behalf of both the parties. On perusal of the record it appears that a report was called for by the Court below from the Investigating Officer about the petitioner's prayer for return of the said seized articles and Investigating Officer has submitted his report on 10th June, 2024, wherein he has clearly stated that the seized articles i.e. Breezer loaded in the offending vehicle with its related documents may be released to the petitioner and in respect of

said release, the Investigation agency has got no objection.

In the presence of such report and the absence of any allegation regarding transportation of said liquor consignment and considering the fact that as per consignment the petitioner is bound to deliver the said consignment to the consignee, the order impugned imposing onerous condition of not selling and/or disposing of the seized articles i.e. Breezer, during pendency of the case or asking him to produce the same before the Court as and when called for, appears to be perverse, since the seized articles has got no connection with the alleged offence.

In such view of above, C.R.R. 209 of 2024 is allowed.

The condition imposed by the Court below in the order dated 10th June, 2024 that the petitioner shall not sell and/or dispose of the said articles during pendency of the case and/or to produce the same before the Court as and when called for by the Court at his own cost, is hereby set aside. The other portion of the order dated 10th June, 2024 shall remain interfered.

If any Bond has already been furnished by the petitioner accepting said condition, liberty is given to the petitioner to file fresh Bond after cancelling the earlier one.

(Ajoy Kumar Mukherjee, J.)