

HIGH COURT AT CALCUTTA
In The Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction

Present:

The Hon'ble Justice Jay Sengupta

WPA 1419 of 2024
Bhagwan @ Bhagwan Ramgiri
Versus
The State of West Bengal & Ors.

For the petitioner : Mr. Arijit Ghosh
Ms. Swarnali Ghosh Sengupta

For the State : Mr. Nabankur Paul
Mr. Pradip Sarkar

Heard on : 24.07.2024

Judgment on : 24.07.2024

Jay Sengupta, J:

This is an application praying for direction upon the respondent authorities to release the intercepted vehicle bearing no. GJ- 06-BV-2631.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the vehicle in question. He has a

national permit to run his goods transport business with such vehicle. He has collaboration with a Transport Company. On a particular day, the vehicle was seized when it was carrying some household furniture, wood product from Bihar. A case was started, *inter alia*, under Sections 26 and 42 of the Indian Forest Act read with relevant rules. The petitioner made a prayer before the learned Magistrate for release of the vehicle. But, the same was not released. It appears that a confiscation proceeding has started in terms of Section 59A of the Indian Forest Act. The burden of proof is on the State to show that the vehicle is liable to confiscation over such alleged offences. On this, reliance is placed on *Abdul Vahab -vs- State of Madhya Pradesh reported at (2022) 13 SCC 310*.

Learned counsel appearing on behalf of the State denies the allegations and submits as follows. Once a confiscation proceeding start, a prayer for release for seized vehicle cannot be made before the learned Magistrate. The Confiscating Authorities' order would be amenable to review under the civil jurisdiction.

It is settled law that after a confiscation proceeding starts, the jurisdiction of Criminal Court is barred in terms of Section 59G of the Indian Forest Act. On this, reliance may be placed on *State of West Bengal and ors. -vs- Sujit Kumar Rana reported at (2004) 4 SCC 129*.

In the instant case, it appears that a confiscation proceeding has already started. In fact, the question of burden of proof would come up at

the confiscation proceeding. It would not be wise to assume that such principles would not be followed.

If the petitioner is aggrieved with the order passed in a confiscation proceedings, he is entitled to appropriate reliefs.

Be that as it may, since the vehicle was seized quite long ago i.e., on 04.01.2023, let the confiscation proceeding be concluded at the earliest, preferably within four weeks from the next date of hearing.

With these observations, the writ petition is disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)