25.11.2026
Item no. 31.
Court No.8.
AB

CRA (DB) 256 of 2025

In the matter of : Md. Tajibur Rahaman
@ Md. Tazibur Rahaman @ Taju

……Appellant.

Mr. S. Das Mahapatra,
Mr. Somnath Adhikari,
Ms. Prajna Paramita Mondal,
Mr. Bisal Roy .....for the Appellant.

Mr. Kallol Mondal, ld. PP
Mr. Arijit Bhusan Bagchi ……for the State.

Dictated by Arijit Banerjee, J.

1. This appeal is directed against a portion of the judgment and order dated January 22, 2025, passed by the Additional District and Sessions Judge, 2nd Court cum Judge, Special Court, under the NDPS Act, Berhampore, Murshidabad, whereby NDPS Case No.134 of 2014 was in effect dismissed. The appellant was acquitted of charges under the NDPS Act, 1985.

2. The appellant was the sole accused person before the learned Trial Court. At the time of his arrest, a sum of Rs.9,06,000/- was seized from him. While acquitting him of the charges under the NDPS Act and dismissing the prosecution case, learned Trial Court did not direct such money to be returned to the appellant. Being aggrieved, the appellant is before us.

3. We have heard learned Counsel for the parties at some length.

4. The relevant portion of learned Single Judge's order reads as follows:

> *"33. I have also considered the contention advanced by l.d. Advocate for the defence on the issue to return the recovered/seized Indian currency notes for a sum of Rs.9,06,000/- (Rs. Nine Lakhs Six Thousand only) from the accused. In this connection I have perused the entire prosecution evidence and other materials available on record and it transpires that a sum of Rs.9,06,000/- was recovered/seized by the informant vide seizure list dated 07.06.2014 (Ext.3). I also do find that vide order no. 22 dated 16.11.2014 of this court, the said amount was deposited with the Lalbagh Treasury in terms of one application filed on behalf of SI Harekrishna Mondal of Bhagwangola PS, the then in charge of cash – account section of Bhagwangola PS on the ground of demonetization of denomination of Rs.500/- and Rs.1,000/- as circulated by Ministry of Finance, Government of India at the relevant point of time. A copy of deposit receipt is also on record in compliance thereof. It is pertinent to mention here that l.d. Advocate for the defence has claimed that the said amount to be returned to the accused, however, the defence has not led any evidence to the effect that the accused is the rightful owner of the seized amount of Rs.9,06,000/- (Rs. Nine Lakhs Six Thousand only). Nor has the accused given any suitable explanation for his possession of such huge amount of Indian Currency Notes when he was examined by this court under Section 351 of BNSS, 2023/313 of Cr.PC. In this connection, I would like to refer question no.9 and 10 of the form of recording of examination of the accused wherein this court had given opportunity to the accused to give suitable explanation regarding the facts of this case and his innocence by putting following questions:*
>
> *Question No.9 – Do you want to say anything more ?*
>
> *Ans. – "No".*
>
> *Question No.10- Do you want to adduce any evidence on your behalf?*
>
> *Ans. – "No".*
>
> *34. Therefore, I am of the view that the accused has not given any suitable explanation regarding his possession of the said amount so seized by the informant (PW1) being the rightful owner which he is now claiming despite opportunity was given to him. On the contrary, as per the prosecution case and the evidence on record, the seized amount was obtained by selling contraband substance – "Heroin" by the accused which may be treated as 'sale proceeds of the crime' in this*

case. Hence, it is liable to be confiscated to the State in accordance with the provisions as contained under Section 62 of the NDPS Act, 1985".

5. It is not in dispute that the said sum of Rs.9,06,000/- was seized from the appellant at the time of his arrest. The appellant says that there is no reason not to return such money to him. Learned Trial Court refused such prayer on the ground that the appellant has not furnished sufficient evidence of the fact that the money belongs to him or has not explained how he was in possession of such substantial sum of money. The learned Trial Court has also proceeded to hold that such money may be treated as 'sale proceeds of the crime'. This clearly is inconsistent with acquittal of the appellant of the charges under the NDPS Act. On one hand, learned Trial Court has held that the appellant has not committed the crime that he was charged with. On the same breath, the learned Court has held that the money seized from the appellant may be treated as 'sale proceeds of the crime'. The two cannot go together.

6. In our view, since it is not established that the said sum of Rs.9,06,000/- is proceeds of sale of contraband items and/or is in any manner connected with narcotics, the same should be forthwith returned to the appellant from whom such money was seized. In this connection, one may refer to the decision of a Coordinate Bench in the case of ***Milan Mondal Vs State of West Bengal*** reported at ***2022 SCC Online Cal 1546*** and also to an order dated ***March 23,***

2026, passed by a Coordinate Bench in CRA (DB) 325 of 2023.

7. We, accordingly, direct learned Trial Court to issue appropriate directions to the concerned treasury so that the said sum of Rs.9,06,000/- is forthwith returned to the appellant along with applicable interest, if any.

8. Let this order be placed before the learned Trial Court by the appellant. The order should be carried out within a fortnight of the order being so placed before the learned Trial Court.

9. CRA (DB) 256 of 2025 is, accordingly, disposed of.

10. Let a copy of this order along with Trial Court Records be sent down to the learned Trial Court at once.

11. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Rishad Medora, J.) **(Arijit Banerjee, J.)**