

16.

Ct.29

CRR 4464 of 2025

27.03.2026

Bd.

**Goffar Ali Jamadar @ Goffar Ali Zamader
-vs-
The State of West Bengal & Anr.**

Mr. Soumya Nag
Mr. Aditya Tiwari ... for the petitioner

Mrs. Zareen N. Khan
Mr. Atif Ahmed Siddiqui ... for the State.

Private opposite party is not represented.

Petitioner herein is aggrieved with the order dated 11.06.2025 passed by learned Chief Judicial Magistrate, Alipore by which the court below has directed for auction sale of the seized vehicle and depositing the sale proceeds with government treasury after reversing his earlier order of return of seized vehicle to petitioner on execution of bond.

Being aggrieved by the aforesaid order learned counsel for the petitioner submits that the order impugned is wholly unsustainable in law and deserves to be set aside. The said order effectively nullifies a prior judicial order dated 22.01.2025, whereby the learned Magistrate had granted interim custody of the seized vehicle to the authorized representative of the petitioner namely Firoz Ali Sk. upon execution of a bond of Rs. 6,00,000/- pursuant to "No Objection" report given by the investigating officer of the instant case. He further submits that the said order dated 22.01.2025 attained finality. The Magistrate cannot review or sit in revision over its own judicial order and in the absence of any statutory provision enabling such review, the learned Magistrate

in connection with the instant case acted without jurisdiction in reversing the earlier custody order in the guise of issuing fresh directions for auction.

The background of the case is that on the basis of information received through an extract of General Diary along with a Motor Collusion Report being MCR NO. 244 of 2024, the Alipore Police station Case No. 127 of 2024 dated 26.12.2024 was registered for investigation under sections 281/125(b) of the BNS against the driver of an unknown offending bus. The driver and the helper of the said offending bus were arrested subsequently by the investigating agency for negligent driving which caused grievous injury to one passenger of the vehicle.

The petitioner through its representation had prayed for return of seized vehicle before the court below who by an order dated 22nd January, 2025 on the basis of “No Objection” report submitted by the investigating agency, released the seized bus in favour of petitioner’s representative Firoj Ali Sk. on execution of a proper bond.

Thereafter the investigating agency all on a sudden made a prayer before the court below for getting back possession of the said vehicle from the custody of the petitioner, on the ground that the vehicle in question was not insured at the relevant point of time. The victim who suffered injury also prayed for auction of the seized vehicle.

Learned Trial Court relying upon one judgment of Madhya Pradesh High Court passed in **N.D.Singhal –vs- State of M.P. & Ors.** delivered on 10th November, 1998, reported in **1999(1)MPLJ**

118 came to a finding that if the vehicle involved in any accident is not insured, in that case vehicle is not supposed to be released and thereby referring some other judgments including the Judgment of **Sundarbhai Ambala Desai Case (2002) 10 SCC 283**, he directed the investigating agency to make inventory of the seized vehicle and after completion of inventory directed to make auction sale of the seized vehicle and to deposit the sale proceeds of the auction sale with government treasury.

On perusal of the impugned order it appears that trial court has clearly misinterpreted the judgment of **N.D.Singhal -vs- State of M.P. & Ors.**(supra). In the said judgment the ratio laid down is that such vehicle shall not be released unless the photocopies of the insurance policy as well as driving license are deposited by the concerned accused and, if vehicle is not insured at the relevant point of time, then solvent security is to be obtained from the owner of the vehicle or his agent and along with solvent security, in case of heavy/light vehicle a cash security of Rs. 50,000/- per victim to be is taken or bank guarantee then alone they will release the vehicle in question on suparatnama.

In the instant case it is an admitted position that the petitioner by his agent has already executed a bond of Rs. 6,00,000/- before the court below and on being satisfied with the bond vehicle was returned to the petitioner but thereafter by dint of the impugned order, police has repossessed the vehicle and has kept it under the open sky at police station and thereby the vehicle is getting damaged day by day.

In such circumstances, the trial court has acted gross illegality in reversing/reviewing its own order by directing the petitioner to return the said vehicle to the concerned police station. Due to such misinterpretation of law, the vehicle is getting further damaged at the police station, in clear violation of the direction given by the Apex Court in the case of **Sundarbhai Ambalal Desai -vs- State of Gujrat reported in (2002) 10 SCC 283** where it has been clearly mandated to pass appropriate order by the concerned Magistrate immediately by taking appropriate bond and guarantee as well as security for return of the seized vehicle, even at the stage of pending hearing of the prayer for return of seized vehicle, as whatever be the situation, it is of no use to keep such seized vehicle at the police station for a long period.

In view of above, the impugned order dated 11.06.2025 is hereby set aside. The concerned, Alipore Police Station is directed to return the seized vehicle on same bond to the petitioner or his authorized representative on proper receipt, within a period of ten (10) days from the date of communication of this order.

Accordingly, CRR 4464 of 2025 is disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)