

JOCODE WB00683
C.R.(NDPS) 79 OF 2023(CIS NO. 79 OF 2023)

Order No. 12, Dated 12-02-2024

Today is fixed for further report.

A further report with regard to valuation, ownership is received from P.S.I. Navneel Rai of Kharibari P.S. stating the value of the seized vehicle vide registration No. WB-74BH-9018 to be Rs. 1,00,000/- and Munni Tamang, son/wife/daughter of Ambar Bahadur Tamang of South Rathkhola, Naxalbari, Bhimram, Darjeeling, West Bengal – 734429 is presently the registered owner of seized vehicle and a copy of agreement for sale appears to have been issued in the name of Sri Dulal Barman, s/o. N. Barman of Uttar Rathkhola, P.O. and P.S. Naxalbari, Dist. Darjeeling, as per his inquiry report as well as statement of the I.O. before this Court this day. I.O. also raises no objection with regard to release of the seized vehicle.

Ld. Lawyer for the petitioner and Ld. Special P.P.-in-charge are present on call.

Ld. Lawyer for the petitioner prays for passing an order for returning of the vehicle.

Ld. P.P. in charge prays for passing necessary order.

Perused the case record and the I.O.'s report 12.02.2024.

It appears from the further report submitted this day and statement of the I.O. present before this Court, the vehicle in question was initially owned by Munni Tamang, has now been sold to Sri Dulal Barman and Munni Tamang has also executed an agreement to sale as well as power of attorney in favour of Dulal Barman, though name of Dulal Barman has not been noted in the registration document. Thus, there is reason consider the prayer of petitioner Dulal Barman.

Trial in this case is still to begin and is likely to take some time before it is finally disposed of. In the meanwhile the said vehicle is likely to be depreciated and damaged without being used. Considering this, the materials on record and in view of the decision of the Hon'ble High Court in CRR 382 of 2018 in Waish Ahmed vs. State of West Bengal and CRR 1152 of 2015 in Ainul Haque vs. State of West Bengal the prayer is allowed.

Accordingly, let the seized vehicle vide registration No. WB-74BH-9018 be returned to the petitioner, Sri Dulal Barman after proper verification and receipt of following conditions :-

1. The petitioner/owner shall furnish cash security of Rs. 1,00,000/-.
2. The petitioner shall produce the seized vehicle before this court as and when called for during the trial and also during the confiscation proceeding, if any such proceeding is initiated.
3. To facilitate the production of the seized vehicle before this court as and when called for, the seized vehicle shall not leave the State of West Bengal, till the conclusion of trial and confiscation proceeding, if any such proceeding is initiated, without prior permission of the trial court.
4. The petitioner/owner shall not alienate the seized vehicle or change its nature and character during the pendency of the case.
5. The seized vehicle shall not be used for commission of any offence.

Send a copy of this order to the O.C./I.O. P.S.I. Navneel Rai of Kharibari P.S. for information and necessary action.

Fix **25.04.2024** for appearance and I.O.'s report.

D/c by me
Sd/-
Judge, Special Court
NDPS Act, Siliguri

Sd/-
Judge, Special Court
NDPS Act, Siliguri