

37.
18.12.2025
Bd.
Ct. 29

CRR 4274 of 2025
Raj Kumar Jaiswal

Vs.
The State of West Bengal

Mr. Ayan Bhattacharya
Mr. Sounak Mondal
Mr. Suman Majumdar

... for the petitioner.

The instant application has been preferred against the judgment passed by learned Additional District and Sessions Judge, Fast Track Court No. 1, Calcutta, in Criminal Appeal No. 152 of 2024.

By the impugned order learned court below has affirmed the order of Judicial Magistrate 9th Court, Calcutta, who convicted the petitioner with a simple imprisonment for one year and to pay fine for committing offence punishable under section 3(a) of the Railway Property (Unlawful Possession) Act.

Being aggrieved by the aforesaid judgment passed by the court below petitioner's contention is that appellate court failed to appreciate the evidence on record and also failed to arrive at an independent finding and in fact acted on the judgment and order of conviction passed by learned Trial Magistrate, which is contrary to the criminal jurisprudence. Learned Appellate Court did not consider that there was no legally tangible evidence to implicate the petitioner and to arrive at the conclusion of guilt as has been arrived at by the trial court. They failed to notice that railway officers did not inform the local police station at the time when the truck with the alleged stolen goods was inspected and seized by the railway officers and only the railway officers has deposed in the course of trial to prove the case of prosecution, who are

interested witnesses. He also submits that it is trite law that when two views are possible the view pointing to the innocence of the accused should be accepted. But such principle has not been followed in the instant case and the petitioner/convict was also not examined in accordance with law under section 313 of the Cr.P.C. to explain all the incriminating circumstances appeared during evidence adduced by the prosecution.

Upon hearing learned counsel for the petitioner, the application is admitted.

Call for the trial court record as well as record of the court below.

Petitioner is directed to serve a copy of the application upon the State through the office of the Public Prosecutor, High Court, Calcutta.

Having heard learned counsel appearing on behalf of the petitioner and that the petitioner has made out an arguable case, which requires adjudication on merit, let the execution of the order of conviction as well as order of affirmation dated 19.08.2024 and dated 25th August, 2025 passed in C.S. 9144/1922 and Criminal Appeal No. 152 of 2024 respectively are hereby stayed for a period of twelve (12) weeks from date or until further order, whichever is earlier.

Let the matter be listed under the heading "Contested Application" in the monthly list of February, 2026.

(Dr. Ajoy Kumar Mukherjee, J.)