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19.04.2022.
SB
Ct. No. 2

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

C.R.R. 50 of 2021
CRAN 1 of 2021

In the matter of : Noor @ Nur Islam Ali @ Petla & Anr.

Mr. Hillol Saha Poddar
Mr. Sourav Ganguly ...For the petitioners

Mr. Ajoy Kumar Singhanian
Mr. Sourab Kar ... For the UOI

Supplementary affidavit filed on behalf of the petitioner is
taken on record.

This is an application challenging an appellate judgment
and order affirming a conviction and sentence passed under the
Railway Property (Unlawful Possession) Act.

Learned counsel appearing on behalf of the petitioners
submits as follows. The seizure of articles were not properly done.
P.W.-4 admitted that his signature was not there on the packing. In
fact, only nine items out of a total of eleven items seized were
produced at the time of his examination. The Investigating Officer,
P.W.-5 admitted in the cross-examination that the godown from which
the articles were allegedly seized was an unauthorized one and it was
only a certificate issued by a local person namely, Anukul Bhadra that
connected the present petitioner with the alleged offence. However,
the said Anukul Bhadra was not examined during trial.

Learned counsel appearing on behalf of the Union of India prays for time and submits that copies of this application and the supplementary affidavit may be served upon him.

Let the petitioner serve a copy of the application along with a copy of the supplementary affidavit upon the learned counsel for the Union of India in course of this week.

Let this matter appear in the list under the heading 'Listed Motion' before the next available Circuit Bench.

The operation of the impugned order shall remain stayed for a period of six weeks from this date.

Liberty is granted to pray for extension or modification or vacating of the interim order upon notice to the other side.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)