

VERDICTUM.IN

IN THE SUPREME COURT OF INDIA CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2025
(Arising out of Special Leave Petition (Crl.) No.17081 of 2024)

TARUN KUMAR MAJHI

..... APPELLANT

VERSUS

THE STATE OF WEST BENGAL

.....RESPONDENT

ORDER

1. Leave granted.
2. Present appeal has been filed by the Appellant challenging the impugned judgment and order dated 15th July, 2024 passed by the High Court at Calcutta in C.R.R. No.1439 of 2021 by which the High Court directed furnishing of a surety bond of Rs.6,00,000/- (Rupees Six Lakhs) for release of the vehicle i.e. Hyundai X-cent belonging to the Appellant.
3. It is pertinent to mention that the aforesaid vehicle owned by the Appellant-advocate was seized in 2017 in connection with investigation of a case registered with Nandanghat P.S. Case No.180 of 2017 on 15th July, 2017 under Sections 20(b)(ii)(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').
4. Though the name of the Appellant was initially mentioned in the First

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Information Report ('FIR') but after culmination of investigation, he was discharged from the said case on the basis of specific statement made by the Investigation Officer before the Trial Court in 2017 itself. However, the Appellant's car has continued to be in custody of police as an *alamat* of the case.

5. The learned Special Judge (NDPS), 3rd Court Burdwan, West Bengal in Special (NDPS) Case No.34 of 2017 acquitted four of the five accused persons on 23rd December, 2020. The trial against the fifth accused is yet to start as he is absconding.

6. On 19th March, 2021, the Appellant filed an application under Section 452 Cr.P.C. in the Special (NDPS) Case No.34 of 2017 for release of his Hyundai X-cent car. However, the Trial Court rejected the Appellant's application vide order dated 20th April, 2021 holding that the application had been filed at a belated stage and there was no merit in the said application.

7. Aggrieved by the said order of the Trial Court, the Appellant had preferred a revision petition before the High Court. The same was allowed vide impugned judgment and order dated 15th July, 2024 i.e. the seizure/confiscation order was quashed subject to the condition that the Appellant would have to furnish a surety bond of Rs.6,00,000/- (Rupees Six Lakhs).

8. Ms. Paromita Majumdar, learned counsel for the Appellant states that as the Appellant was given a clean chit at the investigation stage itself in 2017 (as he was not arrayed as an accused), the vehicle in question should have been released unconditionally. She also states that the present value of the car is not worth Rs.6,00,000/- (Rupees Six Lakhs) – the amount for which the Appellant has been asked to furnish a surety bond.

9. She emphasises that the Appellant has already paid more than Rs.6,00,000/- (Rupees Six Lakhs) as equated monthly instalment and now to ask the Appellant not

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to sell/transfer the car and to furnish a surety bond worth of Rs.6,00,000/- (Rupees Six Lakhs) would be extremely unfair and harsh.

10. *Per contra*, learned counsel for the Respondent-State states that as one of the accused is still absconding, the vehicle in question cannot be released unconditionally.

11. In response to a pointed query as to when the trial against the fifth accused is likely to conclude, the learned counsel for the Respondent-State states that he cannot give any definitive timeline. He, however, fairly states that the Respondent got the car valued and according to the police, the valuation of the vehicle as on date is Rs.2,10,000/- (Rupees Two Lakhs Ten Thousand Only).

12. It is settled law that the seized vehicles can be confiscated by the Trial Court only on conclusion of the trial when the accused is convicted or acquitted or discharged. Further, even where the Court is of the view that the vehicle is liable for confiscation, it must give an opportunity of hearing to the person who may claim any right to the seized vehicle before passing an order of confiscation. However, the seized vehicle is not liable to confiscation if the owner of the seized vehicle can prove that the vehicle was used by the accused person without the owner's knowledge or connivance and that he had taken all reasonable precautions against such use of the seized vehicle by the accused person.

13. Recently this Court in ***Bishwajit Dey vs. The State of Assam, Criminal Appeal No.87 of 2025 dated 7th January, 2025*** has held that there is no specific bar/restriction under the NDPS Act for release in the interim of any seized vehicle.

14. Since the respondent-State is unable to give any definitive timeline as to when trial against the fifth accused would conclude, this Court directs the Trial Court to release the vehicle in question after preparing a video and still photographs of the

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vehicle, subject to the Appellant furnishing a surety bond of Rs.2,10,000/- (Rupees Two Lakhs Ten Thousand) instead of Rs.6,00,000/- (Rupees Six Lakhs).

15. This Court is further of the view that to direct the Appellant not to sell the vehicle till the trial concludes against the fifth accused, would be extremely unfair as no owner can be directed to possess and own the vehicle indefinitely. Consequently, it is clarified that there is no restriction on the sale/transfer of the car and in the event, the Trial Court ultimately passes an order of confiscation of the Appellant's vehicle, the Appellant shall pay an amount of Rs.2,10,000/- (Rupees Two Lakhs Ten Thousand) only, as even if the State were to sell the vehicle in question after confiscation, it would recover the said amount only.

16. With the aforesaid directions, present appeal is disposed of. Pending applications, if any, also stand disposed of.

.....J.
[DIPANKAR DATTA]

.....J.
[MANMOHAN]

New Delhi;
March 03, 2025.

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ITEM NO.36

COURT NO.14

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 17081/2024

[Arising out of impugned final judgment and order dated 15-07-2024
in CRR No. 1439/2021 passed by the High Court at Calcutta]

TARUN KUMAR MAJHI

Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL

Respondent(s)

Date : 03-03-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) :Ms. Paromita Majumdar, AOR
Mr. Pinak Mitra, Adv.
Mr. Jayant Rao, Adv.
Ms. Meenakshi Vimal, Adv.

For Respondent(s) :Mr. Kunal Chatterji, AOR
Ms. Maitrayee Banerjee, Adv.
Mr. Rohit Bansal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeal is disposed of in terms of the signed order.
3. Pending application(s), if any, stand disposed of.

(JATINDER KAUR)
P.S. to REGISTRAR

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)

[Signed order is placed on the file]