

Present

Mr. Justice A.S.M. Abdul Mobin

&

Mr. Justice Md. Mahmud Hassan Talukder

Criminal Revision No. 4300 of 2023.

Md. Asad AliPetitioner.

Vs.

The state.....Opposite Party.

Mr. H.A. Mahmud Sumon Advocate
for the petitioner.

Ms. Samira Tarenum Rabeya, D.A.G.with
Ms. Shamsun Nahar, AAG with
Mr. Mohammad Akter Hossain, AAG
for the opposite party.

Judgment on: 07.03.2024.

A.S.M.ABDUL MOBIN,J.

At the instant of the accused petitioner the rule has been issued calling upon the opposite party to show cause as to why the order dated 12.07.2023 passed by the learned Judge of the Druto Bichar Tribunal, Khulna in Sessions Case No. 963 of 2022 arising out of Dumuria Police Station Case No. 16 dated 19.05.2022 corresponding to G.R. Case No. 120 of 2022 under table 14 (Kha) of section 36(1) of the Madak Drabbya Niyontron Ain, 2018, now pending in the Druto Bichar Tribunal, Khulna should not be set aside.

By the impugned order dated 12.07.2023 learned judge of the tribunal below rejected the prayer of the accused petitioner for taking the seized motorbike in his Jimma.

The case was initiated against unknown accused on the allegation that the informant party intercepted a motorbike but the person who was riding the motorbike fled away. The informant seized the motorbike and narcotics and 26 bottles of phensidyle.

Police investigated the case and submitted charge sheet against this accused petitioner under table 14(kha) of section 36(1) of the Madak Drabbya Niyontron Ain, 2018. The case was sent to the Druto Bichar Tribunal, Khulna for trial. In the Tribunal below this accused petitioner filed an application for taking the seized motorbike in his jimma. But the learned judge of the Tribunal rejected his prayer on 12.07.2023.

The petitioner being aggrieved filed this revision and obtained the rule.

Mr. H.A. Mahmud Sumon, the learned Advocate appearing on behalf of the petitioner submits that the seized motorbike is kept in an open place and there is every possibility of its being damaged. In view of the matter the learned judge of the Tribunal ought to have allowed the prayer of the petitioner for taking the Motorbike in his Jimma. Accordingly, the order is illegal and liable to be set aside.

On the other hand, the learned Deputy Attorney General opposes the rule.

We have considered the submissions of the learned Advocates, perused the application and all other relevant papers annexed thereto. It is admitted fact that the motorbike has been seized and the accused petitioner is the owner of the motorbike. It is submitted that the seized motorbike is kept in open place. If it is kept in open place and uncared of there is likelihood of its damaged. In that view of the

matter, prayer of the petitioner for taking the seized motorbike in his jimma could be allowed.

Accordingly, we find merit in this rule.

In the result, the rule is made absolute.

The learned Judge of the Tribunal is directed to allow the petitioner to take the seized motorbike in his jimma on furnishing sufficient security to the satisfaction of the learned Judge of the Tribunal.

Communicate this order to the concerned court at once.

MD. MAHMUD HASSAN TALUKDER, J.

I agree.