

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

CrI.MC.No. 5188 of 2014 ()

AGAINST ORDER IN CRL.M.P. NO.503 OF 2013 IN S.C. 61 OF 2011 OF THE
COURT OF THE SPECIAL JUDGE (N.D.P.S ACT CASES) VADAKARA

PETITIONER/PETITIONER:

ALI ,
S/O.VEERAN, MULAKKAL HOUSE, VARODE AMSOM
OTTAPALAM, PALAKKAD.

BY ADVS.SRI.P.P.THAJUDEEN
SRI.MANSOOR.B.H.

RESPONDENT/COMPLAINANT/STATE:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM THROUGH CIRCLE INSPECTOR
KUTTIPPURAM EXCISE RANGE
MALAPPURAM DISTRICT.

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
22-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 5188 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A. COPY OF THE ORDER DATED 3.10.13 IN SC 61/11 (NDPS) OF COURT OF THE SPECIAL JUDGE (NDPS ACT CASES) VATAKARA.

ANNEXURE B. COPY OF THE ORDER DATED 13.5.14 IN CRMP 503/2014 IN SC 671/11 OF COURT OF THE SPECIAL JUDGE(NDPS ACT CASES) VATAKARA.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
~~~~~  
**Crl.M.C No.5188 of 2014**  
~~~~~  
Dated this the 22nd January, 2015

ORDER

The petitioner herein is the registered owner of a vehicle involved in a crime registered under Section 20 (b), ii (B) of the Narcotic Drugs and Psychotropic Substances Act. Pending investigation, he made application under Section 451 of the Code of Criminal Procedure for interim custody of the vehicle. This application was allowed by the learned Special Judge (NDPS Act Cases), Vatakara on condition. In compliance of the condition, he deposited an amount of ₹ 40,000/- in the trial court. The learned Special Judge convicted the accused as per judgment dated 3.10.2013 in S.C 61 of 2011. However, no specific final order was passed under Section 452 of the Code of Criminal Procedure. The petitioner herein filed Crl.M.P.503 of 2014 claiming the amount deposited by him. In the said proceeding, the learned Special Judge passed orders regarding the vehicle under Section 452 Cr.P.C making the order made under Section 451 Cr.P.C absolute. Such an

order was passed on the finding that the vehicle is not liable to confiscation. The petitioner's request for the amount was also allowed by the learned Special Judge, however, with a rider that the amount could be released only after the appeal is disposed of. The petitioner is aggrieved by the said condition.

3. On hearing both sides, I find that the amount in deposit can be released to the petitioner on his executing a bond. Once it is found that the vehicle is not liable to confiscation, and the trial court has also passed orders under Section 452 Cr.P.C in favour of the petitioner, there is no meaning in retaining the amount in court custody. It appears that the accused has no grievance regarding the orders passed by the trial court under Section 452, Cr.P.C. When the petitioner is admittedly the owner of the vehicle, and when there is definite finding that the vehicle is liable to confiscation, I feel that it would be just and proper to release the amount to him, however, on his executing bond to ensure remittance in court, if and when required.

In the result, this petition is allowed. The amount of ₹ 40,000/- deposited by the petitioner in the court below will be released to him on his executing bond with one surety, for the amount in deposit.

Communicate this order to this court below, without delay.

**Sd/-
P.UBAID
JUDGE**

ma

/True copy

P.S to Judge