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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 15.09.2022

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THE HONOURABLE MR. JUSTICE **G.ILANGOVAN**

Crl.RC(MD)No.868 of 2022

Parthiban : Petitioner/Petitioner/A2 &
Owner of the Vehicle

Vs.

The Inspector of Police,
Vikkaramangalam Police Station,
Madurai District.
(Crime No.94 of 2022) : Respondent/Complainant

Prayer: Criminal Revision filed under sections 397 r/w 401 of the Code of the Criminal Procedure, to call for the records pertaining to the order, dated 26/08/2022 made in Crl.M.P No.1668 of 2022 passed by the Judicial Magistrate No.II, Usilampatti and set aside the same, consequently direct the Judicial Magistrate No.II, Usilampatti to release the two wheeler bearing Registration No.TN-59-CW-4957 to the petitioner.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondent : Mr.SS.Madhavan
Government Advocate
(Criminal Side)

**ORDER**

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This Criminal Revision is filed seeking to set aside the order, dated 26/08/2022 passed in CrI.M.P No. 1668 of 2022 by the Judicial Magistrate No.II, Usilampatti and direct the Judicial Magistrate No.II, Usilampatti to release the two wheeler bearing Registration No.TN-59-CW-4957 to the petitioner.

2.The petitioner is facing the charges for the offences under sections 8(c) 20(b)(ii)(A) and 25 of the NDPS Act, in Crime No.94 of 2022. He was arrested and later, released on bail. The vehicle bearing registration No.TN-59-CW-4957 belongs to him and that vehicle was also seized and remanded to custody. Seeking release of the above said vehicle, he filed a petition in CrI.MP No.1668 of 2022 before the Judicial Magistrate No.II, Usilampatti. That came to be dismissed by the trial court namely the Judicial Magistrate No.II, Usilampatti, on 26th August 2022 stating that as per the provision of NDPS Act, the vehicle is liable to be confiscated. So on that ground, the request was rejected.



3.Challenging the legality of the above said order, this criminal revision has been filed.

4.Heard both sides.

5.The learned counsel appearing for the petitioner would straight away rely upon the decision of the Madhya Pradesh High Court in the case of Munni Singh Vs. State of Madhya Pradesh (CRR-506-2021, dated 27/07/2021). On going through the relevant provisions and section 63 of the NDPS Act, the Court concluded that only at the conclusion of the trial, confiscation proceedings can be initiated and not either during the investigation or trial stage.

6.Here, the investigation has not been completed, final report has not been filed so far and the trial has not commenced so far. So it has too premature stage. So the impugned order suffers from illegality, which requires to be interfered by this court.



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7. In the result, this criminal revision is **allowed** and the impugned order passed by the trial court is set aside and the alleged vehicle is ordered to be returned to the petitioner, on the following conditions:-

(i) The petitioner must produce the original RC book before the concerned court;

(ii) The petitioner must deposit Rs.25,000/- to the credit of the Crime No.94 of 2022 on the file of the Judicial Magistrate No.2, Usilampatti, within a period of four weeks from the date of receipt of a copy of this order;

(iii) The petitioner must execute a bond for a sum of Rs.25,000/- with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.II, Usilampatti;



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(iv)The petitioner shall not alienate or change the physical feature of the vehicle without the permission of the trial court; and

(v)The petitioner must produce the vehicle as and when required by the trial court.

8.With the above said conditions, this criminal revision stands allowed.

15.09.2022

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Judicial Magistrate No.II,
Usilampatti.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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Cr1.RC(MD)No.868 of 2022

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