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Crl.R.C.No.563 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 05.04.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE V.SIVAGNANAM**

**Crl.R.C.No.563 of 2023**

Arun

... Petitioner

Vs.

State By  
The Inspector of Police,  
S-1, St. Thomas Mount Police Station,  
Chennai.  
Crime No.324 of 2021.

... Respondent

**PRAYER:** Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. to set aside the order passed by the learned Principal Special Court under EC & NDPS Act, Chennai in Crl.M.P.No.1726 of 2022 dated 04.05.2022.

For Petitioner : Mr.R.Thamarai Selvan

For Respondent : Mr. R.Vinothraja  
Govt. Advocate (Crl.side)



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**ORDER**

Challenging the order, dismissing the petitioner's application filed under Section 451 of Cr.P.C, passed by the Principal Special Court under EC & NDPS Act, Chennai in Crl.M.P.No.1726 of 2022, dated 04.05.2022 to return the VIVO-V21 Mobile Phone, the present Revision has been filed.

2. The learned counsel for the petitioner submitted that the petitioner was arrayed as an accused in Crime No.324 of 2021 for the offence punishable u/s.8(c), 17(a), 21(a), 22(a) of NDPS Act, as he along with three other accused was found in illegal possession of 700 Tydol Tablets. While he was arrested the respondent police seized his mobile phone viz.,VIVO V-21 from the petitioner and the same was remanded before the learned Principal Special Judge under EC & NDPS Act, Chennai. He further submitted that the said mobile phone is no way connected with the offence and he is not having previous bad antecedents. The trial court, without considering the above fact, dismissed his petition seeking return of above said cell phone. Hence he seeks to set aside the impugned order and to



allow the criminal revision case.

3. The learned Govt. Advocate (crl.side) submitted that the police registered a case against the petitioner in Crime No.324 of 2021 for the offence u/s.8(c), 17(a), 21(a), 22(a) of NDPS Act. At the time of arresting the petitioner/accused, the respondent police, while seizing the banned articles, seized his VIVO-V21 mobile phone also. The same was produced before the trial court and now it is under the custody of Court below. Thus he objected for return of cell phone.

4. Heard both sides and perused the materials available on record.

5. Perusal of records reveals that the petitioner was arrayed as an accused in Crime No.324 of 2021 by the respondent police for the offence punishable u/s.8(c), 17(a), 21(a), 22(a) of NDPS Act. The petitioner was arrested and his mobile phone was seized along with other banned articles and the same was remanded before the learned Principal Special Judge



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under EC & NDPS Act, Chennai. According to the petitioner, the cell phone is no way connected with the offence and also the petitioner is having no previous bad antecedents.

6.Considering the nature of the offence and the cell phone is not connected with the offence committed by the petitioner and also the petitioner is not having any previous bad antecedents, this Court is inclined to grant custody of cell phone to the petitioner.

7. In the result, this Criminal Original Petition is allowed and the impugned order passed by the Trial Court is set aside. The interim custody of VIVO-V21 mobile phone is ordered to be handed over to the petitioner on the following conditions.

- i. the petitioner shall prove his ownership of the VIVO-V21 mobile phone;
- ii. the petitioner shall execute a bond for a sum of Rs.20,000/-



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(Rupees Twenty Thousand only) before the Principal Special Special Judge under EC & NDPS Act Cases, Chennai.

iii. The Court may prepare a panchnama in Judicial Form No.82 with regard to the VIVO-V21 mobile phone and such panchanama can be used in evidence.

iv. the petitioner may take photograph of the VIVO-V21 mobile phone and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.

v. the petitioner shall not alienate or encumber the mobile phone in any manner;

vi. the petitioner shall give an undertaking that he will not use the mobile phone for any illegal activities in future,

vii. the petitioner shall also produce the mobile phone as and when required before the court below and before the respondent police.



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8. Accordingly, the Criminal Revision is allowed.

**05.04.2023**

dsa

Index:yes/no

Internet:yes/no

**To**

1. The Principal Special Judge under EC & NDPS Act, Chennai.
2. The Inspector of Police,  
S-1, St. Thomas Mount Police Station,  
Chennai.
3. The Public Prosecutor,  
High Court of Madras, Chennai.



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**V.SIVAGNANAM, J.,**  
dsa

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**05.04.2023**