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Crl.R.C.No.239/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.NO.239 OF 2023

K. Yenthendra Patluri
Veera Chakra Society,
Kampatee Road, near Go gas,
Mahendra Nagar,
Dr. Ambedkar Marg, Nagput,
Maharashtra 440 017
(Temporary residing at No.39, Amritha Villa,
Ram Nagar, 7th Main Road,
Velachery,
Chennai 042

... Petitioner

-VS-

The State, represented by the
the Inspector of Police,
B-3, Kadambathur Police Station,
Thiruvallur District
(Crime No.76 /2022)

... Respondent

Prayer: Criminal Revision Petition filed under section 397 r/w.401 Cr.P.C.,to set aside the order dated 10.01.2023 of Special Court under EC and NDPS Court at Chennai in Crl.M.P.No.6686 of 2022 and to direct the respondent to return the vehicle viz., Royal ENFIELD bearing Regn. No.MH-49-BL-9851 to the petitioner in Crime No.76 of 2022 pending on the file of the respondent.

For Petitioner : Mr. J.Hedavakumar
For Respondent : Mr. R. Vinothraja
GA (Crl.side)



ORDER

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This Criminal Revision case has been filed challenging the order of dismissal dated 10.01.2023 passed by the Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai – 104 in Crl.M.P.No.6686 of 2022 filed under sections 451 of Cr.P.C. seeking interim custody of the vehicle viz., Royal ENFIELD bearing Regn. No.MH-49-BL-9851.

2. The learned counsel for the petitioner contended that the petitioner is the owner of the vehicle viz., Royal ENFIELD bearing Regn. No.MH-49-BL-9851 seized by the respondent police for the alleged illegal transportation of 90 numbers of Yaba tablets. A case was registered by the respondent for the offence under section 8(c) r/w. 20 (b) (ii) (b), 22 (b), 22)c, 25, 29(i) of NDPS Act against the accused persons on 11.04.2022 in Cr.No.76/2022. Pursuant to which, the vehicle bearing Regn. No.MH-49-BL-9851 was seized by the respondent police and produced before the court below in B.No.217 of 2022 on 30.08.2022. Seeking return of vehicle, the petitioner filed a petition before the court below in Crl.M.P.No.6686/2022 in Cr.No.76/2022, but the court below dismissed the petition on the ground that the contraband seized comes under



commercial quantity and if the vehicle is returned to the petitioner, the same would be used for committing similar nature of offence. He further submitted that the petitioner is not an accused in this case, he is the brother of A6 and only the owner of the abovesaid vehicle and the vehicle is also not involved in similar type of any previous cases. In such circumstances, he seeks to grant interim custody of the vehicle to the petitioner.

3. Further, the learned counsel for the petitioner submitted that no purpose will be served in keeping the vehicle under the custody of respondent police and if the vehicle is kept for a long time in the open space, it would cause damage to the vehicle. The petitioner is ready to give appropriate guarantee as well as security for return of vehicle and also he will produce the vehicle, as and when required either before the respondent police or before the trial court. Hence, he prayed to return the vehicle and he is ready to obey any condition imposed on him by this Court.

4. The learned Government Advocate (crl.side) for the respondent objected to return the vehicle to the petitioner and submitted that the petitioner



is not arrayed as accused in this case and there is no previous case against this petitioner and the vehicle is not involved in the similar type of case previously.

5. I have considered the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (crl.side) for the respondent.

6. Perusal of records would reveal that on 11.04.2022, on receiving secret information about the illegal transportation of dry ganja, the respondent police went to Kadambathur Railway Station, Chennai. At that time, on seeing the police, the accused persons have attempted to escape from that place, but they were caught hold by the respondent police. On enquiry, it was found that the accused persons A1, A2 and A3 were found in illegal possession of 10 nos. of LSD Stamp, MDMA Tablets- 26 nos. Numbers Meth crystal -1 gram and based on their confession statements, they seized 90 nos. of Yaba tablets from A5's vehicle viz., Royal Enfield bike bearing Regn.No.MH-49-BL-9851 belonging to the petitioner. Immediately they seized the above said vehicle and registered a case under sections under section 8(c) r/w.20 (b) (ii) (b), 22 (b), 22(c), 25, 29(i) of NDPS Act on 11.04.2022 in Cr.No.76/2022. The petitioner is the owner of



the above said vehicle and he is not an accused in Crime No.76 of 2022.

Further the vehicle was not involved previously in similar type of offences.

7. Perusal of records would further reveal that the petitioner is only the owner of vehicle and he is not arrayed as accused in this case and the petitioner is ready to give guarantee and security for returning the vehicle. If the vehicle is being kept in an open space, it would cause damage to the vehicle and the value of the vehicle will be diminished and continuing to keep the vehicle in open air would make the vehicle unusable. The petitioner is only the owner of the vehicle and he is ready to give guarantee and security for returning the vehicle. If the vehicle is being kept in an open space, it would cause damage to the vehicle and the value of the vehicle will be diminished and continuing to keep the vehicle in open air would make the vehicle unusable.

8. Further, the Honourable Supreme Court in the case of **Sunderbhai Ambalal Desai and others Vs.State of Gujarat** in Special Leave Petition (crl.) 2745 of 2022 dated 01.10.2002 has held that in order to protect the property, the Apex Court has directed to handover the seized articles to the owner on proper Panchnama.



9. Considering the above aspects and also the ratio laid down by the Hon'ble Apex Court, this Court is of the view that keeping the vehicle idle in the open space, will diminish its nature and lose its value and no purpose will be served. As such, considering the nature of offence and also taking into account the fact that the vehicle is not involved in any other case similar in nature previously, this Court is inclined to allow the Criminal Revision Case.

10. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 10.01.2023 passed in Crl.M.P.No.6686 of 2022 by the Principal Special Court under EC & NDPS Act, Chennai is set aside. The respondent is directed to return the vehicle viz., Royal ENFIELD bearing Regn. No.MH-49-BL-9851 to the owner of the vehicle on the following conditions.

- i. the petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;
- ii. the petitioner shall execute a bond for a sum of Rs.1,50,000/-(Rupees one lakh and fifty thousand only) before the Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai – 104.
- iii. The Court may prepare a panchnama in Judicial Form No.82 with



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regard to the vehicle and such panchanama can be used in evidence.

iv.the petitioner may take photograph of the vehicle and certified under Section 65B of the Central At 1 of 1972 and such photographs may be used as secondary evidence.

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

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

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

16.03.2023

msr

Index: yes/no

Internet:yes/no

To

1. The Inspector of Police,
B3, Kadambathur Police Station,
Kadambathur, Thiruvallur District.
2. The Principal Special Judge, Principal Special
Court under EC & NDPS Act,
Chennai – 104
3. The Public Prosecutor,
Madras High Court.



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V. SIVAGNANAM, J.

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