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Crl.R.C.No.303 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.R.C.NO.303 OF 2023

Kanthan

... Petitioner

Vs.

State Rep. By
The Inspector of Police
T-13, Kundrathur Police Station
Chennai.
(Crime No.699 of 2022)

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 read with 401 of the Criminal Procedure Code, 1973, to set aside the order dated 27.01.2023 in Crl.M.P.No.161 of 2023 passed by the Principal Special Court under EC and NDPS Court at Chennai and to direct the respondent to return the property Mobile Phone namely I Phone and Bike Honda Dio bearing registration number TN02-BH-6962 to the petitioner seized in Crime No.699 of 2022 on the file of respondent police.

For Petitioner : Mr.S.Gokulakannan

For Respondent : Mr.R.Vinoth Raja
Government Advocate (Criminal Side)



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ORDER

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Challenging the order dated 27.01.2023 passed in Crl.M.P.No.161 of 2023 passed by the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai, dismissing the petition filed under Section 451 Cr.P.C, by the petitioner to return the I-Phone and Honda Dio Bike bearing Registration No.TN02-BH-6962, the present Criminal Revision has been filed.

2.The learned counsel for the petitioner submitted that the petitioner was arrayed as A2 in Crime No.699 of 2022 for the offences punishable under Sections 8(c), 20(b)(ii)(B) and 29(1) of NDPS Act, 1985, as he was found in illegal possession of articles which were banned by the Tamil Nadu Government. While he was arrested, the respondent police seized his mobile phone viz., I-phone and Honda Dio Bike bearing Registration No.TN02-BH-6962, from the petitioner. He further submitted that the said mobile phone and the Bike are 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 and



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bike. Hence he seeks to set aside the impugned order and to allow the criminal revision case.

3.The learned Government Advocate (Criminal Side) submitted that the petitioner is the second accused and the respondent police registered a case in Crime No.699 of 2022 for the offences punishable under Sections 8(c), 20(b)(ii)(B) and 29(1) of NDPS Act, 1985. At the time of arresting the petitioner, the respondent police, while seizing the banned articles, seized his i-phone as well as Bike. The same were produced before the trial court and now it is under the custody of Court below. Thus, he objected to return of cell phone as well as two wheeler viz., Honda Dio Bike.

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

5.Perusal of records reveals that the petitioner was arrayed as second accused in Crime No.699 of 2022 by the respondent police for the offences 8(c), 20(b)(ii)(B) and 29(1) of NDPS Act, 1985. On 28.10.2022, he



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was arrested and his mobile phone and two wheeler were seized along with other banned articles and the same were remanded before the Principal Special Court for NDPS Act, Chennai. According to the petitioner, the cell phone and the Bike are 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 as well as the Honda Dio Bike are not connected with the offence committed by the petitioner and also the fact that the petitioner is not having any previous bad antecedents, this Court is inclined to grant custody of cell phone as well as Honda Dio Bike bearing Registration No.TN02-BH-6962 to the petitioner.

7.Accordingly, the impugned order passed by the Court below is set aside and the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai is directed to return the I-phone and Honda Dio Bike bearing Registration No.TN02-BH-6962 to the petitioner on complying the following conditions:-

- (i) the petitioner shall prove his ownership of the



I-phone and Honda Dio Bike bearing Registration No.TN02-BH-6962, by producing the R.C.Book and other relevant records;

(ii) the petitioner shall not alienate or encumber the mobile phone or Honda Dio Bike bearing Registration No.TN02-BH-6962 in any manner;

(iii) the petitioner shall execute a bond for a sum of Rs.75,000/- (Rupees Seventy Five Thousand Only) before the Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai, for I-Phone;

(iv) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) before the Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai for the two wheeler viz., Honda Dio Bike bearing Registration No.TN02-BH-6962;

(v) the petitioner shall give an undertaking that he will not use the i-phone and vehicle for any illegal activities in future,

(vi) the petitioner shall take photograph of the i-phone and vehicle; and

(vii) the petitioner shall also produce the mobile



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phone as well as the two wheeler as and when required before the court below and before the respondent police.

9.In fine, the Criminal Revision is allowed.

21.03.2023

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Index : Yes/No

Internet : Yes/No

TK

To

1.The Principal Special Judge
Principal Special Court under EC & NDPS Act
Chennai – 104.

2.The Inspector of Police
T-13, Kundrathur Police Station
Chennai.

3.The Public Prosecutor
High Court of Madras
Chennai.

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V.SIVAGNANAM, J.

TK

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