



Crl.R.C.No.438 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.438 of 2023

Jalaludeen

... Petitioner

Vs.

The Inspector of Police,
H5- New Washermenpet Police Station,
Chennai.
(Crime No.4482/2022)

... Respondent

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code to set aside the order passed in Crl.M.P.No.732 of 2023 dated 17.02.2023 on the file of the II Additional Special Court NDPS Act, Chennai.

For Petitioner : Mr.S.Kasirajan

For Respondent : Mr.J.Subbiah, GA (Crl.side)

ORDER

The present criminal revision petition is filed against the order passed in Crl.M.P.No.732 of 2023 in C.C.No.134 of 2021 on the file of the Special Judge, II Additional Special Court under EC & NDPS Act, Chennai.

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2. The case of the prosecution is that the Sub Inspector of Police, H5-New Washermenpet Police Station, Chennai along with his police party on receipt of an information on 18.12.2020, went to the scene of offence and found the accused transporting 22 kgs of Ganja in a Tata Ace vehicle bearing Reg.No.TN 18 AX-6898. The Sub Inspector of Police arrested the accused and registered FIR in Crime No.4482/2020 on the same day i.e. on 18.12.2020 for the offences punishable under Sections 8 (c), 20 (b) (ii) (c) of Narcotic Drugs & Psychotropic Substances Act, 1985. Subsequently, he was produced before the Magistrate and was remanded to judicial custody. The contraband and the vehicle were also seized under a mahazar.

3.The petitioner/accused filed Crl.M.P.No.732/2023 before the II Additional Special Judge under EC & NDPS Act, Chennai, under Section 451 Cr.P.C. for return of the vehicle which was seized by the respondent. The II Additional Special Judge, vide her orders dated 17.02.2023 dismissed the Crl.M.P.No.732/2023 on the following grounds :

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i. The vehicle was used for transporting of 22 kgs of Ganja.

ii. If the vehicle is returned to the petitioner, he would use the same for committing similar offences.

Aggrieved over the said orders, the present Criminal Revision Petition is filed.

4. Heard Mr.S.Kasirajan, learned counsel for the revision petitioner and Mr.J.Subbiah, learned Government Advocate (Crl. Side) for the respondent.

5. Mr.S.Kasirajan, learned counsel for the revision petitioner contended that this Court had already granted bail to the accused and that the present vehicle is still in the custody of the police.

6. Per contra, Inspector of Police, H-5, New Washermenpet Police Station, Chennai had filed his counter affidavit in which he had stated that the revision petitioner / accused was found transporting of 22 kgs of Ganja in the vehicle bearing Reg.No.TN 18 AX-6898. According



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to him, after conducting investigation, a charge sheet was filed against the revision petitioner / accused and the same is pending in C.C.No.134/2021. His specific contention is that since the vehicle was involved in the commission of the offence, the same should not be returned to the revision petitioner / accused.

7. It is seen from the records that though the vehicle was used for transporting 22 kgs of Ganja, it need not be kept under the custody of the police just for the purpose of marking the same during the trial. The petitioner had also filed a copy of the RC book which shows that he is the owner of the vehicle. Learned Government Advocate (Crl. Side) fairly conceded that there are no bad antecedents and no case is pending against the present accused.

8. Considering the facts and circumstances of the present case, the vehicle may be returned to the petitioner on the following conditions:

- i. The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only).



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- ii. He should not alter or alienate or deal with the vehicle in any manner whatsoever.
- iii. He should deposit the original R.C. Book before the trial Court.
- iv. He should not change the color of the vehicle.
- v. He should produce the vehicle as and when required by the trial Court.
- vi. The trial Court is directed to take photographs of the vehicle and then return the same to the present revision petitioner.

9. With the above directions, this Criminal Revision Petition is allowed. No costs.

04.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
mtl

To

1. The Inspector of Police,
H5- New Washermenpet Police Station,
Chennai.

2. The II Additional Special Court NDPS Act, Chennai.

3. The Section Officer, Criminal Section, High Court, Madras.

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