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Crl.R.C.No.562 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

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

Crl.R.C.No.562 of 2023

Sanjay Kumar

... Petitioner

Vs.

The State Rep. by  
the Inspector of Police,  
Palladam Police Station,  
Coimbatore District.  
(Crime No.838 of 2022)

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order passed by the learned Additional District Judge, Special Court for EC & NDPS Act cases at Coimbatore in Crl.M.P.No.4025 of 2022, dated 15.12.2022 and consequently direct the respondent Police to return the Two Wheeler bearing Reg. No.TN 39 CR 3667 Model KTM 200 DUKE (Ceramic While), having Engine No. M-935\*30732\* and Chassis No. MD2JPCXM9MC063297, which was seized by the respondent Police in Crime No.838 of 2022.

For Petitioner : Mr.R.Mukesh Kannah

For Respondent : Mr.R.Vinothraja, GA (Crl. Side)



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**ORDER**

The present criminal revision petition is filed, praying to set aside the orders passed in Crl.M.P.No.4025 of 2022 on the file of the Additional District Judge, Special Court for EC & NDPS Act cases, Coimbatore.

2. The revision petitioner is Accused No.2 in Crime No.838/2022 of Palladam Police Station, Coimbatore. He filed the said petition under Sections 451 r/w 457 of Cr.P.C., for return of his two wheeler bearing Reg. No.TN 39 CR 3667 Model KTM 200 DUKE (Ceramic White), which was seized by the respondent, the Inspector of Police, Palladam Police Station, Coimbatore District in Crime No.838/2022 for the alleged offences punishable under Sections 8(c), 20(b)(ii)(B), and 29 (1) of NDPS Act.

3. The case of the prosecution is that on 03.08.2022 at about 17.00 hours, when the Inspector of Police was on patrol duty along with



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his Police team, he intercepted a two wheeler bearing Reg. No.TN 40 E 5217. On seeing the Police, the rider and pillion rider attempted to escape from the scene of occurrence and they were caught by the Police and a search was conducted on the rider and the pillion rider of the vehicle and they were found in possession of 1.100 Kgs of Ganja. FIR in Crime No.838 of 2022 was registered for the offence under Sections 8(c), 20(b)(ii)(B), and 29(1) of NDPS Act. The said contraband was seized along with the vehicle. Thereafter the respondent Police arrested the accused and remanded them to the judicial custody on the same day. Based on the information given by the accused persons, the respondent seized the another two wheeler bearing TN 39 CR 3667 Model KTM 200 DUKE (Ceramic White) which belongs to the present revision petitioner/A2. The seized vehicles and the contraband were produced before the Additional District Judge, Special Court for EC & NDPS Act cases at Coimbatore. The contraband seized was sent to forensic laboratory through Court.

4. Mr.R.Mukesh Kannah, learned counsel for the petitioner contended that if the vehicle is kept idle in open space in the Police



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station, the value of the vehicle would diminish over a period of time.

Therefore, he prayed for return of the vehicle.

5. Per contra, the learned Government Advocate (Crl. side) contended that there are no bad antecedents as against the revision petitioner/A2.

6. It is relevant to refer a decision of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai and others Vs. State of Gujarat in Special Lave Petition (Crl.)2745 of 2022 dated 01.10.2002*, wherein, it is held thus:

### ***Vehicles***

*“In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.*

*In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle*



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*may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.”*

7. Accordingly, this Criminal Revision Petition is allowed and the impugned order dated 15.12.2022 passed by the learned Additional District Judge, Special Court for EC & NDPS Act cases at Coimbatore is set aside. The Additional District Judge, Special Court for EC & NDPS Act cases at Coimbatore, is directed to return the vehicle 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.25,000/- (Rupees Twenty five Thousand Only) before the learned Additional District Judge, Special Court for EC & NDPS Act



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cases at Coimbatore.

- iii) the Court may prepare a panchnama in Judicial Form No.82 with regard to the two wheeler bearing Reg.No. TN 39 CR 3667 Model KTM 200 DUKE (Ceramic White) and such panchanama can be used in evidence.
- iv) the petitioner shall take photograph of the vehicle bearing registration No. TN 39 CR 3667 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 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 by the court below and by the respondent police.

**26.07.2023**

Index: Yes/No  
Speaking/Non-Speaking order  
vum

To

1.The Additional District Judge,

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Special Court for EC & NDPS Act cases at Coimbatore

2. The Inspector of Police,  
Palladam Police Station,  
Coimbatore District.
3. The Section Officer,  
Criminal Section, High Court,  
Madras.

**R. HEMALATHA, J.**



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