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Crl.R.C.No.909 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

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THE HONOURABLE Mr. JUSTICE V. SIVAGNANAM

Crl.R.C.No.909 of 2023

Karthick @ Tappa Karthick

... Petitioner

Vs.

State Rep by
The Inspector of Police,
V3 JJ Nagar Police Station,
Padikuppam, Chennai.
(Crime No.220 of 2022)

... Respondent

Criminal Revision filed under Section 397 r/w 401 of Cr.P.C., to call for the records in Crl.M.P.No.1346 of 2023 in C.C.No.568 of 2022 on the file of the Special Principal Special Court under EC and NDPS Act at Chennai dated 09.03.2023 and set aside the same subsequently grant interim custody of vehicles.

For Petitioner : Ms.M.Rajeswari

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



ORDER

This Criminal Revision Petition has been filed to set aside the order passed by the learned Principal Special Court under EC & NDPS Act, Chennai made in Crl.M.P.No.1346 of 2023 and to return the vehicle Yamaka bearing registration No.TN 02 BL 3562 and Volkswagen (Polo), bearing registration No.TN 12 AA 7067 to the petitioner /owner of vehicles.

2.It is the case of the prosecution that on 13.06.2022 at about 07.45 hours, on secret information when the respondent Police went to scene of occurrence along with the team, they found the petitioner along with other accused illegally transporting 4.100 kgs Ganja and Gold Earrings weighing 4 grams in the vehicle Yamaka bearing registration No.TN 02 BL 3562 and Volkswagen (Polo), bearing registration No.TN 12 AA 7067 and hence a case in Crime No.220 of 2022 was registered for the offences under Sections 8(c) and, 20(b)(ii)(B) of NDPS Act and the vehicles were seized.



3. The petitioner is the owner of the above said vehicles and he filed a petition in Crl.M.P.No.1346 of 2023 before the Trial Court to release the vehicle to him. But it was dismissed, vide order dated 09.03.2023 on the ground that if the vehicles are returned to the petitioner, he may involve his vehicles in similar nature of offence. Hence, challenging the above said order, the petitioner filed the present Revision case.

4. The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle Yamaka bearing registration No.TN 02 BL 3562 and Volkswagen (Polo), bearing registration No.TN 12 AA 7067 He further submitted that if the vehicles are kept for a long time in the open space, it would cause damage to the vehicle and that the vehicles are not involved in any case of similar in nature and the petitioner is ready to give appropriate guarantee as well as security for return of vehicles and also he will produce the vehicles, as and when required either before the respondent police or before the Trial Court. Hence, he prayed to return the vehicles to the petitioner.



5. The learned Government Advocate [Criminal Side] appearing for the respondent submitted that the petitioner is owner of the vehicles, Yamaka bearing registration No.TN 02 BL 3562 and Volkswagen (Polo), bearing registration No.TN 12 AA 7067 and since the above said vehicles were used to transport 4.100 kgs Ganja and Gold Earrings weighing 4 grams, they were seized and hence, he objected to return the vehicles to him. He further submitted that the vehicles are not involved in any previous case of similar nature.

6.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and I have perused the materials on record.

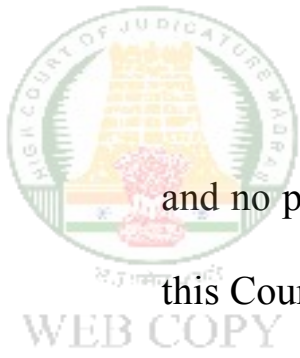
7.A perusal of the records shows that, the respondent police registered a case in Crime No.220 of 2022 for the offences under Sections 8(c) and 20(b)(ii)(B) of NDPS Act with regard to illegal transportation of Ganja and gold. Further, it reveals from the records that the petitioner is the owner of the vehicles, Yamaka bearing registration No.TN 02 BL 3562 and Volkswagen (Polo), bearing registration No.TN 12 AA 7067 and they



were seized by the respondent police. The Trial Court dismissed the petition in Crl.M.P.No.1346 of 2023, filed by the petitioner, on the ground that if the vehicles are returned to the petitioner, he may involve his vehicles in similar nature of offence. It is the contention of the learned counsel for the petitioner that the petitioner is ready to give guarantee and security for returning the vehicles and if the vehicles are being kept idle in open space, it would cause damage to the vehicles.

8. At this juncture, it is relevant to rely upon a decision of the ***Hon'ble Supreme Court in Sunderbhai Ambalal Desai and others Vs. State of Gujarat in Special Leave Petition (Crl.)2745 of 2022 dated 01.10.2002*** wherein the Hon'ble Supreme Court 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 as per the ratio laid down by the Hon'ble Apex Court, this Court is of the view that, keeping the vehicles 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, this Court is inclined to allow the Revision Petition.

10. Accordingly, this Criminal Revision Case is allowed and the impugned order passed by the Trial Court is set aside. The respondent police is directed to return the vehicles to the owner on the following conditions :

- i. the petitioner shall prove his ownership of the vehicles by producing the R.C.Book and other relevant records;
- ii. the petitioner shall execute a personal bond for a sum of Rs.10,00,000/- (Rupees ten lakhs only) for the vehicle bearing registration No.TN 12 AA 7067 and a sum of Rs.1,50,000/- (Rupees one lakh and fifty thousand only) for the vehicle, Yamaka bearing registration No.TN 02 BL 3562 before the learned Principal Special Court under EC & NDPS At, Chennai and the learned Magistrate shall not insist on production of solvency certificate.



- iii. the Court may prepare a panchnama in Judicial Form No.82 with regard to the vehicles and such panchanama can be used in evidence.
- iv. the petitioner shall take photograph of the vehicles 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 vehicles in any manner;
- vi. the petitioner shall give an undertaking that he will not use the vehicles for any illegal activities in future,
- vii. the petitioner shall also produce the vehicles as and when required before the court below and before the respondent police.

09.06.2023

Index:Yes/No
Internet:Yes/No
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To

- 1.The Principal Special Court under EC & NDPS Act, Chennai
- 2.The Inspector of Police,
V3 JJ Nagar Police Station,
Padikuppam, Chennai.
- 3.The Public Prosecutor, High Court, Madras.



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V. SIVAGNANAM, J.

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