



Crl.R.C.No.692 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.692 of 2023

Sweatha Kasi

... Petitioner

Vs.

State Rep. by
the Inspector of Police,
Pallavaram Police Station,
Chennai.
(Crime No.1010/2022)

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code to set aside the order passed in Crl.M.P.No.842 of 2023, dated 21.02.2023 on the file of the Principal Special Judge for EC/NDPS Act Cases, Chennai and direct the respondent to return the iphone -13 bearing IMEI No.354874934636978 which was seized in connection with Crime No.1010/2023 on the file of the respondent Police.

For Petitioner : Mr.T.Balaji

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

ORDER



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The present criminal revision petition is filed, praying to set aside the orders passed in Crl.M.P.No.842 of 2023 on the file of the Principal Special Judge for EC/NDPS Act Cases, Chennai.

2. The learned Principal Special Judge under EC & NDPS Act vide her orders dated 21.02.2023 dismissed the said petition filed under Section 451 & 457 of Cr.P.C seeking return of the iPhone-13 bearing IMEI No.354874934636978 which was seized by the respondent, Inspector of Police, Pallavaram Police station, Chennai in Crime No.1010/2022 for the alleged offences punishable under Sections 8(c) r/w. 20(b)(ii)(B), 28, 29(1) and 25 of NDPS Act.

3. The case of the prosecution is that on 15.12.2022 at about 07.30 hours, the Sub Inspector of Police, on receiving secret information, went along with his police team to Pallavaram Pammal Main Road near Radiance Bright Apartment and intercepted a two wheeler 'Honda Activa bearing Registration No.TN09 CH 8424. A search was conducted and the accused 1 and 2 were found in possession of 350 ml of Ganja Oil. The



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said contraband was seized along with the vehicle. They also seized a iPhone-13 bearing IMEI No.354874934636978 belonging to the present petitioner. Thereafter the respondent Police arrested the accused and remanded them to judicial custody on the same day. The seized articles and the contraband were produced before the Principal Special Court under EC & NDPS Act at Chennai. The present revision petitioner filed a petition under Section 451 & 457 of Cr.P.C. for return of the above said iPhone. The learned Principal Special Judge under EC & NDPS Act vide orders dated 21.02.2023 dismissed the said petition on the ground that the investigation is at preliminary stage. Aggrieved over the said orders, the present revision is filed.

4. The respondent filed a counter affidavit wherein, interalia, it is stated that since the investigation has not been completed the petition may be dismissed.



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5. Heard, Mr.T.Balaji, learned counsel for the revision petitioner and Mr.J.Subbiah, learned Government Advocate (Crl. Side) learned counsel for the respondent.

6. The learned counsel for the petitioner submitted that the present petitioner is not involved in any offence and he prayed for return of the iPhone.

7. Considering the nature of the offence and also of the fact that the cell phone is not connected with the offence allegedly committed by the petitioner, this Court is inclined to grant interim custody of cell phone to the petitioner.

8. Accordingly, this Criminal Revision Petition is allowed and the impugned order dated 21.02.2023 passed by the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai is set aside. The Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai, is directed to return the iPhone to the revision petitioner on the following conditions :

- i) the petitioner shall prove her ownership of the iPhone-13 bearing



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IMEI No.354874934636978;

- ii) the petitioner shall execute a bond for a sum of Rs.50,000/-
(Rupees Fifty Thousand Only) before the learned Principal Special
Judge, Special Court under EC & NDPS Act, Chennai.
- iii) the petitioner shall not alienate or encumber the mobile phone in
any manner;
- iv) the petitioner shall also produce the mobile phone as and when
required by the court below and by the respondent police.

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

R. HEMALATHA, J.

vum



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To
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- 1.The Principal Special Court for NDPS Act, Chennai.
- 2.The Inspector of Police,
Pallavaram Police Station,
Chennai.
3. The Section Officer,
Criminal Section, High Court,
Madras.

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