



WEB COPY

Crl.Rc.No.882 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Crl.Rc.No.882 of 2023

Rishikesh

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
T-4, Maduravoyal Police Station,
Chennai.
Crime No.107 of 2023.

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w. Section 401 of Criminal Procedure Code to set aside the order passed in Crl.M.P.No.2820/2023 on the file of the learned Principal Special Judge, Special Court under EC and NDPS Act, Chennai.

For Petitioner : M/s. N.Arun Kumar

For Respondent : S.Vinoth Kumar, Govt. Advocate
(Crl.Side)



ORDER

This Criminal Revision Petition has been filed to set aside the order passed by the learned Principal Special Judge, Special Court under EC and NDPS Act, Chennai in Crl.M.P.No.2820 of 2023 and to return the impounded mobile phone (Apple iPhone 13, Green colour).

2. The case of the prosecution is that the petitioner/A-3 and two other accused were found in possession of 2 Kgs of Ganja. Hence, the respondent police registered a case in Crime No.107 of 2023 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(B), 25 and 29(1) of NDPS Act against them and seized the above said mobile phone along with contraband.

3. The petitioner herein filed a petition in Crl.M.P.No.2820 of 2023, on the file of the Principal Special Judge, Special Court under EC and NDPS Act, Chennai, to return his mobile phone. But it was dismissed by the Trial Court, vide order dated 08.05.2023. Hence, challenging the above said order, the petitioner has filed the present Criminal Revision Case.

4. The learned counsel for the petitioner submitted that the petitioner



is arrayed as A3 in this Case and the said mobile phone is no way connected with the case and if the seized mobile phone is kept at idle, it may deteriorate in a short period. He also submitted that the petitioner is ready to give appropriate guarantee as well as security for return of mobile phone and he will also produce the same, as and when required either before the respondent police or before the Trial Court. Hence, the learned counsel for the petitioner prayed to return the mobile phone to the petitioner.

5. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner is the owner of the above said mobile phone and the same was seized along with contraband. However, he objected to return the mobile phone to the petitioner.

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

7. A perusal of the records would show that the respondent police registered a case in Crime No.107 of 2023 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(B), 25 and 29(1) of NDPS Act against three persons, viz., Rufus Gnanaraj/A1, Avinash/A2, and Rishikesh/A3, petitioner



herein, regarding possession of 2 kgs of Ganja and seized the contraband along with a mobile phone. Now the mobile phone is under safe custody of police. The petitioner, who is the owner of the mobile phone, as stated supra, filed a petition before the Trial Court to return the property and the same was dismissed. It is the contention of the learned counsel for the petitioner that the said mobile phone is no way connected with the case and if the seized mobile phone is kept at idle, it may deteriorate in a short period and the petitioner is ready to give guarantee and security for returning the property.

8. Considering the facts and circumstances of the case and also taking into account the submission made by the learned counsel for the petitioner and the nature of offence, this Court is inclined to allow the Criminal Revision Petition with some conditions.

9. 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 mobile phone viz., Apple iphone 13, Green colour to its owner, on the following conditions:-

i. the petitioner shall prove his ownership of the



WEB COPY

Crl.Rc.No.882 of 21



mobile phone by producing relevant records;

ii. the petitioner shall not alienate or encumber the property in any manner;

iii. the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the learned Principal Special Judge, Special Court under EC and NDPS Act, Chennai.

iv. the petitioner shall give an undertaking that he will not use the property for any illegal activities in future,

v. the petitioner shall take photograph of the property and

vi. the petitioner shall also produce the properties as and when required before the court below and before the respondent police.

17.05.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
jai/shr



To

1. The Inspector of Police,
T-4, Maduravoyal Police Station,
Chennai.
2. The Principal Special Judge,
Special Court under EC and NDPS Act, Chennai.



WEB COPY

Crl.Rc.No.882 of 2023



A.A.NAKKIRAN, J.

jai/shr

Crl.Rc.No.882 of 2023

17.05.2023