



Crl.R.C.No.1241 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

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

Crl.R.C.No.1241 of 2023

Tamil Selvan

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
T-7, Tank Factory Police Station,
Avadi.
(Crime No.23 of 2023)

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 & 401 of Criminal Procedure Code to set aside the order passed in Crl.M.P.No.1944/2023 in Crime No.23/2023 dated 17.04.2023 on the file of the learned Principal Special Court under EC & NDPS Act at Chennai, return the petition mentioned property to the petitioner.

For Petitioner : Mr.J.Dinesh

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

ORDER

Challenging the orders passed by the learned Principal Special

Judge under EC & NDPS Act, Chennai in Crl.M.P.No.1944/2023, filed

for return of Black Colour Honda Motorcycle bearing Reg.No.TN-13-L-

Page 1 of 7



Cr.L.R.C.No.1241 of 2023

2646 seized in connection with Crime No.23/2023, the present revision is filed.

2. The present revision petitioner is the first accused in Crime No.23/2023 of T-7, Tank Factory Police Station, Avadi registered for the offences punishable under Section 8(c) r/w.22(b), 25 and 29(1) of NDPS Act.

3. The case of the prosecution is that the present petitioner was arrested by the Inspector of Police, T-7, Tank Factory Police Station, Avadi along with other accused as they were found in illegal possession of 25 numbers of Tydol – 100 mg tablets on 11.01.2023. The contraband and the motorcycle were seized from them and the accused were remanded to judicial custody on the same day. Thereafter, the present petitioner filed an application under Section 451 of Cr.P.C. for return of the vehicle. The learned trial court judge dismissed the petition on the ground that if the seized vehicle is returned to the petitioner he may use the same for committing similar offence and may not produce the vehicle



Crl.R.C.No.1241 of 2023

WEB COPY

at the time of trial. Challenging the same, the present revision is filed.

4. Heard, Mr.J.Dinesh, learned counsel for the revision petitioner and Mr.R.Vinothraja, learned Government Advocate (Crl. Side) learned counsel for the respondent.

5. Mr.J.Dinesh, learned counsel for the revision petitioner contended that if the motorcycle is kept in an open space the value of the same will diminish over a period of time and hence, prayed for return of the same.

6. Mr.R.Vinothraja, Learned Government Advocate (Crl. Side) fairly conceded that there are no bad antecedents as against the accused and present vehicle is also not involved in any other crime.

7. 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,



the relevant portion is extracted hereunder.

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 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.”



CrI.R.C.No.1241 of 2023

WEB COPY

8. Considering the ratio laid down by the Hon'ble Supreme Court, this Court is inclined to allow the present Revision.

9. Accordingly, this Criminal Revision Petition is allowed and the impugned order dated 17.04.2023 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 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.50,000/- (Rupees Fifty Thousand Only) before the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai.
- iii) the Court may prepare a panchanama in Judicial Form No.82 with regard to the vehicle bearing registration No.TN-13-L-2646 and such panchanama can be used in evidence.
- iv) the petitioner shall take photograph of the vehicle bearing



CrI.R.C.No.1241 of 2023

WEB COPY

registration No. TN-13-L-2646 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 before the court below and before the respondent police.

28.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

R. HEMALATHA, J.



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Crl.R.C.No.1241 of 2023

mtl

To

1.The Principal Special Court for NDPS Act, Chennai.

2.State Rep. by
The Inspector of Police,
T-7, Tank Factory Police Station,
Avadi.

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

Crl.R.C.No.1241 of 2023

28.07.2023