



Crl.R.C. No.1391 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM

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

Crl.R.C.No.1391 of 2023

Poormina

...Petitioner

Vs.

State represented by
The Inspector of Police
PEW Anna Nagar Unit
Chennai District

... Respondent

Prayer : Criminal Revision filed under Sections 397 & 401 Cr.P.C. against the order dated 27.06.2023 passed by the learned Special Judge for EC/NDPS Act Cases, Chennai, in Crl. M.P. No.3734 of 2023.

For Petitioner : Mr.A. Samson

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



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ORDER

The present Revision Petitioner is the wife of the 1st accused in Crime No. 224/2023 of PEW Anna Nagar Unit. The respondent police arrested A1 and A2 for having illegal possession of 2.200 Kgs of ganja and remanded them to Judicial custody on 28.03.2023 and 01.04.2023 respectively. The contra band and the mobile phone were seized from A1 by the respondent police from the scene of occurrence and the same were produced before the learned Special Judge for EC/NDPS Act Cases, Chennai, which were later returned to the respondent police for safe custody.

2. The present petitioner filed a petition in Crl.M.P. No.3734 of 2023 under Section 451 Cr.P.C. before the Special Judge for EC/NDPS Act Cases, Chennai, for the return of Oppo F19 Pro+ Mobile phone, which was seized by the respondent police in connection with the above crime number by stating that she is the owner of the said phone and she is not an accused in this case. The learned trial court judge dismissed the said petition vide her orders dated 27.06.2023 on the



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ground that since the case is still under investigation, the mobile phone cannot be returned to the petitioner. Aggrieved over the same, the present petition is filed.

3. Heard Mr.A. Samson, learned counsel for the petitioner and Mr. R.Vinothraja, GA (Crl. Side) for the respondent.

4. Mr.G.M. Gokulram, learned counsel for the petitioner contended that the petitioner is the sole bread winner of her family and she needs the mobile phone for her daily office use. He further contended that the mobile phone would get damaged if it is not used for a long time. He therefore, prayed for return of the mobile phone.

5. Mr. R.Vinothraja, Government Advocate (Crl. Side) appearing for the respondent contended that the investigation is almost completed and that the police would be filing the final report before the concerned court. He did not raise any serious objection for return of the mobile phone to the present petitioner.



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6. In such circumstances, this Criminal Revision Petition is allowed and the impugned orders dated 27.06.2023 passed by the learned Special Judge for EC/NDPS Act Cases, Chennai, in Crl. M.P. No.3734 of 2023, is set aside. The respondent police is directed to return the mobile phone to the present petitioner on the following conditions :

- i) The petitioner shall execute a bond for a sum of Rs.5,000/- (Rupees Five Thousand Only) before the learned Special Judge for EC/NDPS Act Cases, Chennai.
- ii) The Court may prepare a panchanama in Judicial Form No.82 with regard to Oppo F19 Pro+ Mobile phone, and such panchanama can be used in evidence.
- iii) the petitioner shall take photograph of the Oppo F19 Pro+ Mobile phone, and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.



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iv) the petitioner shall not alienate or encumber the mobile phone in any manner;

v) the petitioner shall give an undertaking that she will not use the mobile phone for any illegal activities in future,

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

08.08.2023

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

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R. HEMALATHA, J.
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To

1. The Special Judge for EC/NDPS Act Cases, Chennai
2. The Inspector of Police
PEW Anna Nagar Unit
Chennai District

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