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Crl.R.C.No.1583 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.1583 of 2022

Lingeshwaran

... Petitioner

Vs.

The State, Rep. by the
Inspector of Police,
T-5 Thiruverkadu Police Station,
Chennai.

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w.401 Cr.P.C.,
to set aside the order dated 14.11.2022 made in Crl.M.P.No.5473 of 2022 on
the file of Principal Special Court under EC &NDPS Act, Chennai.

For Petitioner : Mr. W. Camyles Gandhi

For Respondent : Mr. V. Meganathan, GA (crl.side)

ORDER



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This Criminal Revision is filed challenging the order of dismissal dated 14.11.2022 passed by the Principal Special Court under EC and NDPS Act, Chennai in Crl.M.P.No.5473 of 2022 seeking release of petitioner's vehicle which was kept under the custody of respondent police, after seizing the same in connection with a case in Cr.No.515 of 2022 for the offence punishable under sections 8(c) r/w.20(b)(ii) (B), 25, 29 (i) of NDPS Act, 1985.

2. The learned counsel for the petitioner submitted that the respondent police registered a case against this petitioner along with other persons in Cr.No.515 of 2022 for the offences punishable under sections 8(c) r/w.20(b)(ii) (B), 25, 29 (i) of NDPS Act, 1985, and while seizing Ganja from the accused persons, the police also seized the vehicle viz, blue colour electrical Bike, bearing Registration No.TN-12-AS-1487 from this petitioner, who is the owner of the vehicle. The offence against the petitioner is that he is alleged to have illegally transported Ganja weighing 1.050 Kgs.

3. He further submitted that the petitioner is arrayed as A2 and the only



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allegation against the petitioner is that he only drove the vehicle, but the alleged contraband was seized from the possession of A1 alone. The seized contraband of Ganja weighing 1.050 kgs. is not a commercial quantity. The petitioner and his vehicle is not involved in similar type of previous cases. It is his further submission that the learned Special Judge failed to note that admittedly the petitioner is the owner of the vehicle and if the vehicle is kept idle under the custody of the court in an open place under the unconditional weather conditions, the value of the same would be deteriorated. Hence he seeks interim custody of the vehicle.

4. The learned Govt. Advocate (crl.side) filed his counter stating that if the vehicle involved in the offence is released, there is every possibility that the accused may use the same for illegal activities again, thereby, he objected to return the vehicle to the petitioner. However, he fairly concedes that the petitioner's vehicle is not involved in any previous case involving similar type of offences.



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5. Considered the arguments advanced on either side and perused the materials available on record.

6. On perusal of records, the fact reveals that the respondent police, on receiving secret information on 16.09.2022 at about 8.30 a.m., the police team went for patrolling at Sundarasozhapuram, Kasturibai Avenue, Chakreswari Nagar junction, during the course of which, they found this petitioner came in a two wheeler viz., Hero optima bearing Registration No. TN 12 1487, carrying another person as a pillion rider. On intercepting the vehicle, they found that they were in possession of 1150 gms of Ganja. Thereafter, they arrested the accused persons and seized ganja weighing 1150 gms from them, pursuant to which, they seized the two wheeler bearing Registration No.TN 12 1487 and registered a case in Cr.No.515 of 2022 against them for the offences punishable under sections 8(c) r/w.20(b)(ii) (B), 25, 29 (i) of NDPS Act, 1985. They produced the vehicle before the Principal Special Court under EC and NDPS Act, Chennai which was received in property B.No.336/2022 and it is now under the custody of



7. Admittedly, the petitioner and the vehicle is not involved in similar type of previous cases. The seized Ganja weighing 1.050 kgms is not commercial quantity. In the judgment of the Hon'ble Apex court in ***Sunderbhai Ambalal Desai vs State Of Gujarat, wherein***, the Hon'ble Supreme Court in paragraph No.17 has held as follows:

"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."

Under these circumstances, considering the above principle laid down by the Honourable Supreme Court in the case cited supra, I am inclined to return the vehicle on interim custody to the petitioner on the following conditions.

8. Accordingly, the impugned order passed by the Court below is set



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aside and the court below is directed to return the vehicle bearing Registration No. TN 12 1487 to the petitioner, on complying 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 not alienate or encumber the vehicle in any manner;
- iii. the petitioner shall execute a bond for a sum of Rs.75,000/-(Rupees seventy five thousand only) before the learned Principal Special Court under EC &NDPS Act, Chennai.
- iv. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future,
- v. the petitioner shall take photograph of the vehicle; and
- vi. the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.



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9. Accordingly, the Criminal Revision is disposed of.

05.01.2023

msr

Index:Yes/No

Internet:Yes/No

To

1. The Principal Special Court under EC &NDPS Act, Chennai.
2. The Inspector of Police, T-5 Thiruverkadu Police Station, Chennai.
3. The Public Prosecutor,
High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

msr

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