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Crl.R.C.No.1627 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.1627 of 2022

J.M.Renuka

... Petitioner

-VS-

State Rep. by its,
The Inspector of Police,
H6, R.K Nagar Police Station,
Chennai.
Crime No.279 of 2022.

... Respondent

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., to set aside the order passed in Crl.M.P.No.4582 of 2022, dated 26.09.2022 on the file of Hon'ble Principal Special Court for NDPS Act Cases at Chennai and direct the respondent to release the Two Wheeler Honda Activa Scooter bearing Reg.No.TN-85-L-3431 bearing Chassis No.ME4JF 49NJKG000230 bearing Engine No.JF49EG4000578, which was seized in connection with the Crime No.279 of 2022 pending on the file of the respondent.



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For Petitioner : Ms.L.Srileka
For Respondent : Mr.V. Meganathan
Govt. Advocate (Crl.Side)

ORDER

Challenging the order of dismissal of the petitioner's application filed to return the vehicle passed by the Principal Special Court under EC & NDPS Act, Chennai, in Crl.M.P.No.4582 of 2022, dated 26.09.2022, the present Revision has been filed.

2. The Learned Counsel for the petitioner submitted that the petitioner is the owner of the vehicle and she is not an accused. The petitioner's husband is the accused in this case. The respondent police registered a case against her husband in Crime No.279 of 2022 for the offences under Sections 8 (c), 22 (c) and 25 of NDPS Act, 1985 and seized Tapentadol Tablets 100 mg - 2200 tablets, Alprazolam Tablets-1000 tablets, Clonazepam Tablets - 600 tablets, Nitrazepam Tablets - 9000 tablets, Alprazolam sustained release tablets - 400 tablets and Ketamine Injection - 100 bottles from the accused person and also seized the Two Wheeler Honda Activa Scooter bearing Reg.No.TN-85-L-3431 bearing Chassis



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No.ME4JF 49NJKG000230 bearing Engine No.JF49EG4000578. Further, the learned counsel for the petitioner submitted that the petitioner filed an application seeking for interim custody of the two wheeler and the same was dismissed by the trial Court on the ground that the contraband seized is of commercial quantity.

3. The learned counsel for the petitioner contended that the petitioner is the owner of the two wheeler bearing Reg.No.TN-85-L-3431. The petitioner does not commit any similar type of offence and she is ready to abide any condition imposed by this Court. If the vehicle is allowed to be stationed in an open yard under all weather conditions and the natural calamities, the value of the vehicle will be drastically depreciated.

4. When the matter is taken up, the Learned Government Advocate (Crl.Side) for the respondent objected to return the vehicle. However, he submitted that the petitioner's vehicle was not involved in any previous case or similar type of offence. Hence, he prays to dismiss the petition.



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5. Further, the Learned Government Advocate (Crl.Side) for the respondent filed counter and objected to return the vehicle to the petitioner and pleaded that to dismiss the revision petition. In the counter, paragraph No.1 reads as below:-

“1. ... The case of the prosecution is that on 29.04.2022 at about 10.00 hours, when Tr.Praveen Kumar, the Sub Inspector of Police was in station duty, at that time received a secret information about illegal transport of Narcotic substances, after receiving the secret information, thereafter he went to the scene of occurrence i.e.. Near Sunnambu Kalvai Bus Stop, along with his Police Team (l.e) Tr.Farith Raja-PC 52527 and Tr.Guru-PC 42627. At that time, one accused standing there with Honda Activa bearing Reg. No. TN-85-L-3431. On seeing the police parties, he is trying to escape from that place. Immediately, the said police parties caught and hold the accused flee from the place, during the enquiry came to know that the accused namely Vadivunathan. While searching the said accused and found in possession of Tapentadol Tablets 100 mg - 2200 tablets, Alprazolam Tablets-1000 tablets, Clonazepam Tablets - 600 tablets, Nitrazepam Tablets - 9000 tablets, Alprazolam sustained release tablets - 400



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tablets and Ketamine Injection - 100 bottles kept for illegal sale. Then, the said Sub Inspector of Police have arrested the accused Vadivunathan and obtained confession from him.

The above contrabands along with said two wheeler were seized from the accused under the cover of seizure mahazar in the presence d witnesses.”

6. I have considered the submissions made by the Learned Counsel for the petitioner and the Learned Government Advocate (Crl.side) for the respondent. Records perused.

7. On perusal of records, the fact reveals that, the petitioner is the owner of the vehicle bearing Reg.No.TN-85-L-3431. Based on the complaint given by one R.Praveen Kumar, the respondent police intercepted vehicle and registered the case in Crime No.279 of 2022 for the offences under Sections 8 (c), 22 (c) and 25 of NDPS Act, 1985. Further, the respondent counsel stated that the vehicle was not involved in any similar type of crime. Under such circumstances, the petitioner is



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entitled for interim custody of the vehicle. Therefore, this Court is inclined to return the vehicle as per the dictum laid down by the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai vs State Of Gujarat***, 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."

8. Considering the nature of the offence involved and also considering the dictum laid down by the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai*** (cited supra), I am inclined to return the vehicle to temporary custody of the petitioner on certain conditions.

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



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and the respondent police is directed to return the vehicle bearing Registration No. TN-85-L-3431 to temporary custody of 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.50,000/-(Rupees Fifty Thousand only) before the Principal Special Court for NDPS Act Cases, 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.

9. Accordingly, the Criminal Revision Case is allowed.

30.01.2023

Index :Yes/No.
Internet :Yes/No.



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bsm

V.SIVAGNANAM, J.,

bsm

To,

1. The Principal Special Court for NDPS Act Cases, Chennai.
2. The Inspector of Police, H6, R.K Nagar Police Station, Chennai.
3. The Public Prosecutor, High Court of Madras, Chennai.

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