



Crl.RC No.14 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 10.02.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE V.SIVAGNANAM**

**Crl.Rc.No.14 of 2023**

C.Kalaiyaran

... Petitioner

Vs.

State rep. by the Inspector of Police,  
T-14, Pallikaranai Police Station,  
Chennai.

... Respondent

**PRAYER:** Criminal Revision Petition filed under Section 401 of Criminal Procedure Code, 1973 to call for the records from the Principal Special Judge for EC & NDPS Act Cases, Chennai in the order passed in Crl.M.P.No.5476 of 2022 on 18.11.2022 and to set aside the same by allowing the Revision Petition.

For Petitioner : Mr.N.Sudharsan

For Respondent : Mr.V.Meganathan

Government Advocate (Crl.Side)



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## **ORDER**

This Criminal Revision Petition has been filed to set aside the order passed by the learned Principal Special Judge for EC & NDPS Act Cases, Chennai in Crl.M.P.No.5476 of 2022 on 18.11.2022 and to return two mobile phones viz.,1.Vivo-1No.(IME No.A63035065439350),2. IteI- 1 No. to the petitioner.

2. The case of the prosecution that, the petitioner/A2 and two other accused were found in possession of 6 Kgs of Ganja and they transported the same in a Maruthi Swift car bearing registration No.TN-07-CP-9396. Hence, the respondent police registered a case in Crime No.836/2022 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(B), 25 of NDPS Act against them and seized the above said vehicle, mobile phones (2nos.) along with contraband.

3. The petitioner herein filed a petition in Crl.M.P.No.5476 of 2022 to return his mobiles phones. But it was dismissed by the Trial Court, vide



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order dated 18.11.2022. Hence, challenging the above said order, the petitioner filed the present Revision case.

4. The learned counsel for the petitioner submitted that the petitioner is A2 in this Case and he is the driver of a passenger vehicle. He further submitted that, the seized mobile phones are very essential for the petitioner to do his driving work and to reach the parties using google map. He also submitted that the petitioner is ready to give appropriate guarantee as well as security for return of mobile phones and also he will produce the same, as and when required either before the respondent police or before the Trial Court. Hence, he prayed to return the properties to the petitioner.

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



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

7. A perusal of the records shows that, the respondent police registered a case in Crime No.836/2022 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(B), 25 of NDPS Act against three persons, viz., Sathish/A1, Kalaiarasan/A2, petitioner herein, and Raji/A3, regarding possession and transportation of 6kgs of Ganja and seized the contraband along with a Maruthi Swift car bearing registration No.TN-07-CP-9396 and mobile phones. Now the mobile phones are under the safe custody of police. The petitioner, who is owner of the two mobile phones, as stated supra, filed a petition before the Trial Court to return the properties and the same was dismissed. It is the contention of the learned counsel for the petitioner that the petitioner is a driver of passenger vehicle and the mobile phones are very much essential for him to do his work and he is ready to give guarantee and security for returning the property.



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8. Considering the facts and circumstances of the case and also taking into account the submission made by the counsel for the petitioner and the nature of offence, this Court is inclined to allow the 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 phones viz., 1. Vivo-1No. (IME No. A63035065439350), 2. ITEL- 1 No. to its owner on the following conditions.

- i. the petitioner shall prove his ownership of the mobile phones by producing relevant records;
- ii. the petitioner shall not alienate or encumber the properties 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, Principal Special Court under EC & NDPS Act, Chennai.***



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- iv.the petitioner shall give an undertaking that he will not use the properties for any illegal activities in future,
- v. the petitioner shall take photograph of the properties and
- vi.the petitioner shall also produce the properties as and when required before the court below and before the respondent police.

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**(1/2)**

Index: Yes/No  
Internet: Yes/No  
mst

**To**

1. Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai-104.
2. Inspector of Police,T-14, Pallikaranai Police Station, Chennai.
3. The Public Prosecutor, Madras High Court.



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**V.SIVAGNANAM, J.,**

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