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Crl.R.C.No.1696 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.1696 of 2022

Anandakumar

... Petitioner

Vs.

1. State Rep. by,
The Inspector of Police,
Uthukuli Police Station,
Tiruppur District.

2. The Branch Manager,
Kotak Mahindra Prime Limited,
1st Floor, UR House 1056,
C, Avinashi Road, Anna Salai,
Gopalapuram, Coimbatore – 641 018.

... Respondents

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., 1973, to call for the records and set aside the order dated 01.11.2022 of the Learned Additional District Judge, Special Court for Essential Commodities Act Cases, Coimbatore in Crl.M.P.No.3433 of 2022 and to direct the 1st respondent to return the vehicle Viz., Innova Crysta Car bearing Registration

1 of 7



Crl.R.C.No.1696 of 2022

No.TN-49-BL-5050 to the petitioner in Crime No.302 of 2022 pending on the file of 1st respondent police.

For Petitioner : Mr.M.Mathan Raj
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 under Sections 451 r/w 457 Cr.P.C, passed by the Additional District Judge, Special Court for Essential Commodities Act Cases, Coimbatore, in Crl.M.P.No.3433 of 2022, dated 01.11.2022, the present Revision has been filed.

2. The Learned Counsel for the petitioner submitted that the petitioner is the owner of the vehicle and he is no way connected in this case. The respondent police registered a case against the accused person in Crime No.302 of 2022 for the offences under Sections 8 (c) r/w 20(b)(ii)(C) of NDPS Act, 1985 and seized 21.300kgs of Ganja from the accused person and also seized the four Wheeler viz., Innova Crysta Car bearing Reg. No.TN-49-BL-5050. Further, the learned counsel



Crl.R.C.No.1696 of 2022

for the petitioner submitted that the petitioner filed an application seeking for interim custody of the four wheeler and the same was dismissed by the trial Court on the ground that the contraband seized in the vehicle is of commercial quantity.

3. The learned counsel for the petitioner contended that the petitioner is the owner of the four wheeler bearing Reg.No.TN-49-BL-5050. The petitioner does not commit any similar type of offence and he 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 has not involved in any previous case or similar type of crime. Hence, he prays to dismiss the petition.



Crl.R.C.No.1696 of 2022

WEB COPY

5. On perusal of records, the fact reveals that, the petitioner is the owner of the vehicle bearing Reg.No.TN-49-BL-5050. Based on the complaint given by one Bharathiraja, the respondent police intercepted vehicle and registered the case in Crime No.302 of 2022 for the offences under Sections 8 (c) r/w 20(b)(ii)(C) of NDPS Act, 1985. Further, the respondent counsel stated that the vehicle has not involved in any similar type of crime. Under such circumstances, the petitioner is 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.

6. 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."



Crl.R.C.No.1696 of 2022

WEB COPY

7. Considering the nature of the offences 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.

8. Accordingly, the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle bearing Registration No. TN-49-BL-5050 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.3,00,000/-(Rupees Three Lakhs only) before the Additional District Judge, Special Court for Essential Commodities Act Cases, Coimbatore;



Crl.R.C.No.1696 of 2022

- 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

bsm

Index :Yes/No.

Internet :Yes/No.

To,

1. The Additional District Judge, Special Court for Essential Commodities Act Cases, Coimbatore.
2. The Inspector of Police, Uthukuli Police Station, Tiruppur District.
3. The Public Prosecutor, High Court of Madras, Chennai.



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Crl.R.C.No.1696 of 2022

V.SIVAGNANAM, J.,

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Crl.R.C.No.1696 of 2022

30.01.2023