



WEB COPY



CrI.R.C.No.514 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 3/12/2024

C O R A M

THE HONOURABLE Mr.JUSTICE SUNDER MOHAN

CrI.R.C.No.514 of 2024

Mohamed Noortheen

...

Petitioner

Vs

State

rep. By The Inspector of Police

N 3 Muthialpet Police Station

Chennai.

...

Respondent

PRAYER: Criminal Revision Case filed under Sections 397 r/w. 401 of the Code of Criminal Procedure to set aside the order passed in CrI.M.P.No.8158 of 2023 dated 9/11/2023 in Crime No.92 of 2023 on the file of the Principal Special Court under EC & NDPS Act, Chennai.

For Petitioner : Mr.M.G.Martin Manivannan

For Respondent : Mr.S.Udaya Kumar  
Government Advocate  
(Criminal Side)

- - - - -



WEB COPY



Crl.R.C.No.514 of 2024

## ORDER

The revision challenges the dismissal of the petitioner's application under Section 457 r/w. 451 seeking return of his two wheeler viz.,TVS Jupiter black colour bearing Registration No.TN-76-AJ-4460. The petitioner is accused of an offence under Sections 8 (c) r/w. 22 (b) and 25 of the NDPS Act, which is registered in Crime No.92 of 2023 by the respondent. The petitioner's vehicle was seized during the course of investigation, when the petitioner was found in possession of 20 grams of cocaine. The petitioner filed an application seeking for return of the said vehicle and the learned Magistrate dismissed the said petition stating that return of the property does not arise, as the vehicle is liable to be confiscated under Section 63 of the NDPS Act.

2. The learned counsel appearing for the petitioner submitted that the respondent has not initiated confiscation proceedings so far; that the vehicle is now kept at the Police Station, and is exposed to vagaries of weather; that further detention of vehicle would make the vehicle unusable, rusted



and it would become a scrap; that the petitioner is ready to comply with any condition that this Court may impose while granting return of vehicle; and he prayed for return of property.

3. The learned Government Advocate (Criminal Side) on instructions has filed a counter and would submit that the vehicle belongs to the petitioner and has seized during the course of investigation and that the respondent has not taken any steps for confiscation.

4. Admittedly, the petitioner is the owner of the two wheeler viz., TVS Jupiter Black colour bearing registration No.TN-67-AJ-4460. It is seen that from the date of seizure, the vehicle is kept idle in open and is exposed to vagaries of the weather. Further detention would cause damage to the vehicle, and would become worthless. In a similar case, where the offence under Section 8 (c) r/w. 22 (b) and 25 of the NDPS Act was involved, this Court in a revision in Crl.R.C.No.1322 of 2024, challenging the dismissal of the petition for return of property observed by the order dated 21/8/2024 as follows:-



WEB COPY



Crl.R.C.No.514 of 2024

“The Apex Court in the case of *Sainaba vs. The State of Kerala and another in 2022 SCC On line SC 1784 (Criminal Appeal No.2005/2022 [SLP (CRL.) No.7280/2022])* by following the judgment of the Apex Court in the case of “*Sunderbhai Ambalal Desai Versus State of Gujarat reported in (2002) 10 SCC 283*” released the vehicle which was involved in the NDPS Act. Further, the learned Government Advocate objected return of property by referring to the order of this Court in Nahoorkani Vs. The State {Crl.R.C.(MD).No.41 of 2019 dated 16.06.2023}, but it is seen that in the said order, the decision of the Apex Court in *Sainaba's* case has not been referred to. In view of the decision of the Apex Court on this point as laid down which is binding under Article 141 of the



Crl.R.C.No.514 of 2024

Constitution of India, this Court is inclined to allow return of property.”

5. Considering the above, the fact that no steps have been taken to confiscate the vehicle and the fact that the vehicle is kept at the Police Station, this Court is inclined to return the vehicle on following conditions.

6. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 9/11/2023 passed by the learned Principal Special Judge, under EC & NDPS Act, Chennai in Crl.M.P.No.8158 of 2023 in Crime No.92 of 2023 is set aside. In view of the same, the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai is directed to return the TVS Jupiter Black colour bike bearing registration No.TN-76-AJ-4460, on the following conditions:-

(i)The petitioner shall execute a bond for a sum of Rs.5,000/- (Rupees Five Thousand only) with two sureties to the satisfaction of the learned Principal Special Judge, Principal Special Court under EC & NDPS Act,



CrI.R.C.No.514 of 2024

Chennai;

WEB COPY

(ii)The petitioner shall produce the original RC Book along with self attested photostat copy of RC Book of the vehicle and other relevant records to prove her ownership. The learned Principal Special Judge shall peruse the RC book and other records, retain xerox copy of the same and return the original RC book to the petitioner;

(iii)The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(iv)The petitioner shall also give an undertaking that she will produce the vehicle as and when required by the respondent and by the court below.

3/12/2024

Index:Yes/No

Neutral Citation: Yes/No

mvs.

To

Page No.6 of 8



Crl.R.C.No.514 of 2024

WEB COPY

1. The Principal Special Court under EC & NDPS Act, Chennai.
2. The Inspector of Police  
N 3 Muthialpet Police Station  
Chennai.
3. The Public Prosecutor,  
High Court, Madras.

SUNDER MOHAN, J



WEB COPY



Crl.R.C.No.514 of 2024

mvs.

Crl.R.C.No.514 of 2024

3/12/2024