



CRL. R.C. No.548/ 2024

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

**DATE : 18.06.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**CRL. R.C. NO. 548 OF 2024**

Madhanraj

.. Petitioner

**- Vs -**

The State, rep. by  
The Inspector of Police,  
V-6, Kolathur Police Station  
Chennai.

.. Respondent

Criminal Revision Cases are filed under Sections 397 r/w 401 of the Criminal Procedure Code to call for the records in CrI. M.P. No.8411 of 2023 dated 31.01.2024 by the learned Principal Special Judge for EC & NDPS Act, Chennai, now pending in I Addl. Special Judge for EC & NDPS Act, Chennai, in C.C. No.1023 of 2023 in Cr. No.95 of 2023 by allowing this revision.

For Petitioner : Mr. S.Devendran

For Respondent : Mr. S.Rajakumar, APP

**ORDER**



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Challenging the dismissal order passed by the learned Principal Special Judge, EC & NDPS Act Cases @ Chennai in Crl. M.P. No.8411 of 2023 vide order dated 31.01.2024 the present Criminal Revision Petition has filed by the petitioner seeking interim custody of the Bajaj Auto bearing Registration No.TN-05-BZ-2720, Chassis No.MD2A49AY8KWJ87600, engine No.24YWKJ79079 to the petitioner, who is the owner of the vehicle, which is alleged to have been involved in Crime No.95/2023.

2. The case of the petitioner is that the petitioner and one Lakshmi Narayanan knew each other and the said Lakshmi Narayanan was driving his auto. That being the case, on 9.5.2023, the said Lakshmi Narayanan had asked the petitioner for the auto for three days, i.e., from 9.5.2023 to 11.05.2023 and the petitioner had given him the auto. However, it is the case of the petitioner that on 10.5.2023 the petitioner received a call from the respondent police that the said auto was involved in transportation of 1.5 Kgs of Ganga, which was illegally found in possession of four accused, of which one was the said Lakshmi Narayanan. The petitioner was called for enquiry and in the enquiry, the petitioner stated that the said Lakshmi Narayanan had cheated him and the



petitioner was informed that the accused admitted bringing the Ganja in the aid vehicle.

It is the further averment of the petitioner that he is not the accused and that he merely knows the said Lakshmi Narayanan and he had handed over the auto to the said Lakshmi Narayanan for family use and prior to this incident, the said auto was not involved in any offence. The petitioner further averred that the auto is his only source of income for running his family which is used for earning his daily bread and butter and, therefore, the petitioner not being shown as an accused and the petitioner being the owner of the said auto. The vehicle, which has been seized in connection with the alleged crime as contended by the respondent Police of which the petitioner is the owner and not being an accused, miscellaneous petition was filed before the trial Court and the trial Court dismissed the petition. Challenging the same, the present Criminal Revision Petition is filed.

3. Learned counsel for the petitioner submitted that admittedly, the petitioner is the owner of the vehicle and on the allegation that the vehicle was involved in trafficking contraband, the vehicle has been seized and kept in open



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space. The petitioner, being the owner of the vehicle, is in no way connected with the said trafficking and the petitioner is not shown as the accused. Since the petitioner's vehicle has been seized and is being kept in open place, the vehicle is prone to corrosion and deterioration by being in open atmosphere, thereby, the value of the vehicle would diminish over a period of time. Further, for the purpose of his livelihood, the petitioner requires his vehicle as otherwise, he would be put to hardship and irreparable loss. Therefore, the petitioner filed petition under Section 451 Cr.P.C. for interim custody of the vehicle, pending trial, which has since been dismissed, leading to the filing of the present revision petition. Learned counsel further submits that the petitioner is ready to comply with any conditions imposed by this Court and, accordingly, prays for allowing these criminal revision petition.

4. Per contra, learned Government Advocate (Crl. Side) appearing for the respondent submits that the said vehicle is involved in Crime No.95 of 2023 for the offences punishable under Section 8(c) r/w 20 (b)(ii)(B) of the NDPS Act and further if the vehicle is released, it may be used for similar purpose of trafficking of narcotic substances and the accused were arrested in possession of the contraband and rightly appreciating all the aforesaid facts, the trial court had



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rejected the claim for return of vehicle and, therefore, no interference is warranted with the said decision and, accordingly, seeks dismissal of the present revision.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent and perused the materials available on record.

6. The issue raised in the present petition is no longer *res integra*, as similar issue, relating to release of vehicle, which was involved in an offence relating to narcotic drugs and psychotropic substances, fell for consideration before the Madurai Bench of this Court in ***Mohd. Shan – Vs – The State (Crl. RC (MD) No.116/2024 – Dated – 08.02.2024)*** and ***Harish Kumar & Anr. – Vs – The State (Crl. RC (MD) Nos. 144 & 145/2024 – Dated – 9.2.2024)*** and appreciating the various provisions of law and the ratio laid down on the said aspect by the Courts, this Court held as under :-

*“9. From the above decision it is clear that it is only the owner of the vehicle, who could claim for interim custody of the property, viz., conveyance, by filing petition before the Special Court u/s 451 Cr.P.C. and upon such petition being filed,*



*subject to fulfillment of the conditions stipulated u/s 60 (3) and proviso to 63 (2) of the NDPS Act, it is for the Special Court to pass appropriate orders. It is further made clear that it is only the Special Court, which is conferred with powers and jurisdiction to decide a petition filed u/s 451 Cr.P.C. with regard to interim custody of the property, viz., the conveyance, by following the mandate contemplated u/s 60 and 63 of the NDPS Act and by virtue of the procedure contemplated u/s 451 Cr.P.C. and strict adherence to Section 451 Cr.P.C. would not be applicable but for the provisions of Sections 60 (3) and 63 (2) of the NDPS Act.*

*10. Coming to the facts in issue, there is no quarrel that the petitions u/s 451 Cr.P.C. have been filed before the trial court, which exercises jurisdiction and that the petitions have been filed by the petitioners, who claim to be owners of the respective vehicles. Therefore, the first arm with regard to jurisdiction and ownership stands fulfilled, but the second are with regard to the owner of the vehicle satisfying that the Court by proving that the vehicle was used without his knowledge or connivance has not been established, as the vehicle was seized from the petitioners, who are the owners of the vehicle, along with the contraband and the names of the petitioners are shown as accused in the FIR. Therefore, without the petitioners absolving themselves from the offence by establishing that they have not trafficked contraband, seeking interim custody of the vehicle would not be permissible, as their complicity in the offence stands intricately*



*connected with the said vehicle and it would not be in the interest of the prosecution to have the vehicle given interim custody to the petitioners, as the vehicles are material objects, which are connected with the commission of the offence.*

*11. In the above backdrop of the factual scenario, even Section 60 (3) of the NDPS Act would not stand attracted to the case of the petitioners for seeking interim custody of the vehicles, as they cannot prove that they had no knowledge or connivance about the offence which had been committed, as their names find place in the FIR. Rightly appreciating the aforesaid position of law, the trial court had rejected the plea of the petitioners for interim custody of the vehicles, which cannot be said to be perverse, arbitrary or illegal and, therefore, the said order does not deserve any interference at the hands of this Court.”*

7. In the case on hand, the petitioner claims ownership of the mobile vehicle, but the pivotal objection on the part of the respondent is that the said auto would be used for trafficking if it is returned and that confiscation proceedings would be taken up u/s 63 of the NDPS Act.

8. It is to be pointed out that Section 451 Cr.P.C. could be invoked by a



person for return of property and the Court, considering the nature of the property and perishability, could order return of the property subject to conditions. In the case on hand, the auto was seized by the respondent and the accused were arrested who were found in possession of the contraband, which was transported in the said vehicle. Though it is established that the petitioner is the owner of the vehicle, merely because, as on date he is not shown as an accused would not be sufficient to return the vehicle back to the petitioner. The petitioner has to establish that his auto was used for trafficking contraband without his knowledge. However, the said fact has not been established, but merely the petitioner claims that he is not shown as an accused and, therefore, the auto could be returned on stringent conditions, as the auto is in open air. However, return of the vehicle back would result in it being used for transportation through some other person to whom it may be given for hire by the petitioner and there is a possibility of trafficking of contraband in a similar fashion, as a person, who is known to the petitioner, viz., Lakshmi Narayanan had trafficked contraband and if the auto is given to some other person for hire, who may be unknown, possibilities of its misuse are high.

9. Therefore, rightly appreciating all the aforesaid factors and further



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confiscation proceedings could be initiated u/s 63 of the NDPS Act, the court below had dismissed the petition for return of vehicle, which findings rendered therein to arrive at the subjective decision, being rational, reasonable and legal, no interference is warranted with the same. Accordingly, this Criminal Revision Petition fails and the same is dismissed.

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Index : Yes / No

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To

1. The Principal Special Judge  
Special Court under EC & NDPS Act  
Chennai.
2. The Inspector of Police  
V-6, Kolathur Police Station  
Chennai.
3. The Public Prosecutor  
High Court, Madras.



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**M.DHANDAPANI, J.**

**GLN**

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