



Crl.R.C.No.1940 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1940 of 2023

Navaneethan

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
T-16 [S-14] Peerankaranai Police Station,
Chennai District.
Crime No.286 of 2022

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order passed by the learned Principal Special Judge under EC & NDPS Act Cases, Chennai in Crl.M.P.No.5245 of 2022 dated 11.11.2022 and order return of vehicle Yamaha Rajdoot RX100 bearing registration No.TN09E3511, Chassis Number:ILI42546DE94, Engine Number ILI429460 and Black Colour of the Month & Year Model 05/2004, seized by the respondent police in Crime No.286 of 2022 on the file of the respondent police to the custody of the petitioner herein.



WEB COPY



Crl.R.C.No.1940 of 2023

For Petitioner : Mr.M.Ravikumar

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)

ORDER

The petitioner is the owner of the two wheeler YAMAHA RAJDOOT RX100, bearing Registration No.TN-09-E-3511, which was seized by the respondent Police in Crime No.286 of 2022 for offences under Sections 8(c) r/w 20(b)(ii)(B) and 29(1) of the NDPS Act. The petitioner filed a petition seeking return of property in Crl.M.P.No.5245 of 2022 before the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai. The learned Principal Special Judge, by order, dated 11.11.2022 dismissed the return of property petition, against which, the present revision has been filed.

2.The contention of the petitioner is that the petitioner/A3 was arrested in this case along with A1 and A2. The case against the petitioner is that the petitioner was found in possession of 400 grams of ganja which is an intermediate quantity. The petitioner has got no bad antecedents. Since



Crl.R.C.No.1940 of 2023

the petitioner was friendly with other accused with bad antecedents the petitioner falsely implicated. It is further submitted that the learned Principal Special Judge has granted bail to the petitioner within 20 days of his arrest taking into consideration that the petitioner has got no bad antecedents of similar nature in Crl.M.P.No.3315 of 2022 dated 25.07.2022. It is further submitted that the petitioner used the vehicle for his avocation and for his personal use. The vehicle involved is an old model and the petitioner is maintaining it with great difficulty. Now the vehicle is kept in open space exposing to vagaries of weather, further detention would make the vehicle unusable, rusted and it would become a scrap. The petitioner is ready to comply with any condition that this Court may impose while granting return of vehicle. It is further submitted that this Court in Crl.R.C.No.1057 of 2023 by order dated 17.07.2023 granted return of vehicle to an accused involved in the offence of similar nature. Hence, he prays for return of property.

3.The Government Advocate (Crl. Side) appearing for the respondent Police filed a counter and submitted that on 06.07.2022 at about 04.30 p.m.,



the then Sub-Inspector of Police received an information from the informant about the illegal sale of ganja. Then he along with the Police team went to the place of occurrence, intercepted the accused persons and found that they were in possession of 1.200 kgs of ganja. The Police team arrested the accused persons, recorded confession statement and the contraband was seized along with two wheeler YAMAHA RAJDOOT RX100 bearing registration No.TN-09-E-3511 under seizure mahazar in presence of witnesses. Thereafter, an FIR in Crime No.286 of 2022 for offence under Sections 8(c), 20(b)(ii)(B) and 29(1) of the NDPS Act against the accused persons registered on 06.07.2022. Thereafter, the accused were sent to judicial custody on 06.07.2022 and the seized contraband and the two wheeler produced before the Principal Special Court under EC & NDPS Act, Chennai. Then, the Inspector of Police sent the samples of contraband to the Forensic Lab, Chennai for chemical analysis on 19.07.2022 and the same was obtained on 15.09.2022. On collection of evidence and materials, charge sheet filed and the same is yet to be taken on file.

4.He further submitted that the petitioner, owner of the vehicle, filed



Crl.R.C.No.1940 of 2023

a petition before the Court below in Crl.M.P.No.5245 of 2023 seeking return of vehicle YAMAHA RAJDOOT RX100 bearing registration No.TN-09-E-3511 and the same was dismissed on 11.11.2022. Challenging the same, the present Criminal Revision Case has been filed. He further submitted that this Court in Crl.R.C(MD)No.41 of 2019, dated 16.06.2023 had given directions to the Special Court with regard to disposal of the conveyance articles seized under the NDPS Act. In view of the above, he prays for dismissal of the criminal revision case.

5.Considering the submissions made and on perusal of the materials available on record, it is seen that the petitioner has already granted bail by the Lower Court and this Court had already granted return of vehicle to an accused involved in the offence of similar nature. It is seen that from the date of seizure, the vehicle is kept in open space exposing to vagaries of weather, further detention would cause damage to the vehicle, in result, the value of the vehicle will get diminished and vehicle would become unusable and immobile. Added to it, the Apex Court in the case of ***Sainaba vs. The State of Kerala and another in Criminal Appeal No.2005/2022 [SLP***



(CRL.) No.72080/2022] 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 (Crl. Side) objected return of property by referring to the order of this Court in 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 Constitution of India, this Court is inclined to allow return of property.

6.Accordingly, this Criminal Revision Case is allowed and the impugned order dated 11.11.2022 passed by the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai in Crl.M.P.No.5245 of 2022 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 YAMAHA RAJDOOT RX100 Motor bike, bearing Registration No.TN-09-E-3511 to the petitioner, on the following



Crl.R.C.No.1940 of 2023

conditions:-

WEB COPY

(i) The petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with one surety to the satisfaction of the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai;

(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 he will produce the vehicle as and when required by the respondent and by the court below.

28.02.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

cse

Page No.7 of 8



WEB COPY



Crl.R.C.No.1940 of 2023

M.NIRMAL KUMAR, J.

cse

To

- 1.The Inspector of Police,
T-16 [S-14] Peerkankaranai Police Station,
Chennai District.
- 2.The Principal Special Judge,
Principal Special Court under EC & NDPS Act,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.1940 of 2023

28.02.2024