



Crl.R.C.No.2335 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-02-2025

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL RC NO. 2335 of 2024

Shyam Sundar

S/o.Saravanan (late) No.122, J.J.Khan Road,
Royapettah, Chennai - 600 014.

Petitioner(s)

Vs

The State Rep. By Its Inspector Of Police,
D4, Zambazaar Police Station, Chennai - 600 014.
Crime No.177/2022

Respondent(s)

CRL RC NO. 2335 of 2024

For Petitioner(s):

For Respondent(s):

Public Prosecutor

ORDER

Today, this matter is listed under the caption 'for being mentioned',
at the instance of the Registry, seeking clarification in the order dated
10.01.2025.



Crl.R.C.No.2335 of 2024

WEB COPY

2. Perused the order dated 10.01.2025.

3. Registry is directed to replace paragraph No.3 of the order dated 10.01.2025 made in Crl.R.C.No.2335 of 2024, as follows:

“3. In view of the submission made, the second condition of paragraph 7 of the order dated 18.12.2024, is replaced as follows:

*The petitioner shall produce the original RC Book along with a self-attested Photostat copy of the RC Book of the vehicle and other relevant records to prove his ownership. The learned **Principal Special Judge, Special Court under EC & NDPS Act, Chennai**, shall peruse the RC book and other records, retain a xerox copy of the same and return the original RC book to the petitioner.”*

4. It is made clear that in all other aspects, the order dated 10.01.2025, remains unaltered.



Crl.R.C.No.2335 of 2024

WEB COPY

5. The Registry is directed to carry out the amendment and issue a

fresh certified copy of the order, dated 18.12.2024 forthwith.

10-02-2025

ars

CRL RC NO. 2335 of 2024

To

1. The State Rep. By Its Inspector Of Police,
D4, Zambazaar Police Station,
Chennai - 600 014.
Crime No.177/2022

Crl.R.C.No.2335 of 2024

SUNDER MOHAN, J.

Today, the matter is listed under the caption “For Being Mentioned” at
the instance of the learned counsel for the petitioner.

2. The learned counsel for petitioner/accused would submit that the
Jurisdictional Court in condition no.7(ii) was wrongly mentioned as the



Crl.R.C.No.2335 of 2024

WEB COPY

learned Judicial Magistrate, Katpadi, instead of the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai in the earlier order dated 18.12.2024.

3.In view of the submission made, the second condition of paragraph 7 of the order dated 18.12.2024, is replaced as follows:

*“The petitioner shall produce the original RC Book along with a self-attested Photostat copy of the RC Book of the vehicle and other relevant records to prove his ownership. The learned **Principal Special Judge, Special Court under EC & NDPS Act, Chennai.**”*

4. It is also made clear that in all other aspects, the order dated 18.12.2024, shall remain unaltered.

5. The Registry is directed to carry out the amendment and issue a fresh certified copy of the order, dated 18.12.2024 forthwith.

10.01.2025

dk



WEB COPY



Crl.R.C.No.2335 of 2024

SUNDER MOHAN, J.

dk

Crl.R.C.No.2335 of 2024

10.01.2025



WEB COPY



Crl.R.C.No.2335 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2335 of 2024

Shyam Sundar

... Petitioner/Accused

vs.

The State rep by its
Inspector of Police,
D4, Zambazaar Police Station,
Chennai – 600 014.
Crime No.177/2022

...Respondent/complainant

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records relating to set aside the order in Crl.M.P.No.2837 of 2024 dated 02.04.2024 on the file of the Court of Principal Special Court under EC & NDPS Act, Chennai.

For Petitioner : Ms.Fathima Mashether
for Mr.S.Manimaran

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



Crl.R.C.No.2335 of 2024

ORDER

WEB COPY

The revision challenges the dismissal of the petitioner's application for return of property filed under Section 451 of Cr.P.C.

2. The petitioner is an accused in Crime No.177 of 2022 registered for the offence under Sections 8(c) r/w 20(b)(ii)(B) @ 8(c) r/w 20(b)(ii)(B), 25 and 29(1) of NDPS Act. The petitioner is said to have carried the contraband, namely, 1200 grms of Ganja in his Two wheeler, namely, TVS Storm bearing Reg.No.TN-06-Y-1839, which was seized by the respondent police during the course of investigation. The petitioner sought for return of the vehicle and the same was dismissed by the learned Principal Special Judge, by the order dated 02.04.2024 on the ground that the vehicle is required to be marked as material object at the time of trial.

3. The learned counsel for the petitioner would submit that ever since the date of seizure, i.e., 17.11.2022, the vehicle is kept idle in the police



Crl.R.C.No.2335 of 2024

WEB COPY

station, it is subject to the vagaries of weather and it would become a scrap and even if confiscation proceedings are initiated, later it would not fetch any money; that the petitioner is ready to comply with any stringent condition that this Court may impose and in view of the judgment of the Hon'ble Supreme Court, since the petitioner is the owner of the vehicle, the interim custody of the vehicle may be handed over to the petitioner.

4. The learned Government Advocate (Crl.Side), on instructions, would submit that no confiscation proceedings have been initiated so far and that there are no previous cases pending against the petitioner.

5. In a similar case in Crl.R.C.No.334 of 2024, this Court had passed the following order while returning the vehicle involved in NDPS Act cases. The relevant paragraph is extracted hereunder:

*“... 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 immobile. Added to it, the Apex Court in the case of **Sainaba vs.***



Crl.R.C.No.2335 of 2024

WEB COPY

*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 Additional Public Prosecutor 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. Considering the above and the fact that the vehicle of the petitioner is kept idle in the police station for the past two years and that there are no previous cases pending against the petitioner, this Court is inclined to grant interim custody of the vehicle to the petitioner.

7. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 02.04.2024 passed by the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai in Crl.M.P.No.2837 of 2024 in Crime No.177 of 2022 is set aside. In view of the same, the



Crl.R.C.No.2335 of 2024

WEB COPY

respondent is directed to return the vehicle viz., Two wheeler TVS Storm bearing Registration No.TN-06-Y-1839 to the petitioner on the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two sureties for a likesum to the satisfaction of the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai;

(ii) The petitioner shall produce the original RC Book along with a self-attested Photostat copy of the RC Book of the vehicle and other relevant records to prove his ownership. The learned Judicial Magistrate, Katpadi, shall peruse the RC book and other records, retain a 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;

(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.



Crl.R.C.No.2335 of 2024

WEB COPY

(v) The return of property would be subject to the result of the confiscation proceedings, if any initiated by the respondent in future.

18.12.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

rsi

To

1.The Principal Special Judge,
Special Court under EC & NDPS Act,
Chennai.

2.The Inspector of Police,
D4, Zambazaar Police Station,
Chennai – 600 014.

3.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.R.C.No.2335 of 2024

SUNDER MOHAN, J.

rsi

Crl.R.C.No.2335 of 2024

18.12.2024