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CrI.OP.No.27070 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Original Petition No.27070 of 2024

Arunkumar

... Petitioner

Vs.

State Rep. by
Inspector of Police,
Perundurai Police Station,
Erode District,
In Crime No.871/2022

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita 2023, praying to set aside the order passed in CMP No.868 of 2024 dated 17.05.2024 and modify the condition the petitioner/owner of the property shall produce two sureties each for Rs.40,000/- to the satisfaction of this Court in CrI MP No.567 of 2024 dated 29.02.2024 by the learned Additional District Judge/ Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore.

For Petitioner : Mr.S.Selvakumar



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For Respondents : K.M.D.Muhilan
Government Advocate (CrI. Side)

ORDER

The petitioner herein is the owner of Two wheeler –Bajaj Pulsar bearing registration No.TN 66 R 7551, and the vehicle was involved in trafficking Narcotic Drugs and hence it was seized by the respondent Police on 20.11.2022.

2. The petitioner has filed an application under Section 451 read with Section 457 of Cr.P.C. for return of the vehicle to his temporary custody.

3. The Special Court for Essential Commodities for NDPS cases Coimbatore has allowed the said application on condition that the petitioner shall produce two sureties each for Rs.40,000/- to the satisfaction of the Court; to deposit the original R.C.Book of the vehicle in the Court; and he shall produce the vehicle before the respondent



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Police on the 1st day of every English calendar month; and he shall not sell or mortgage the vehicle or modify or alter its physical feature.

4. The petitioner herein is aggrieved by the first condition that he should produce two sureties each for Rs.40,000/- to the satisfaction of the Court. According to the learned counsel appearing for the petitioner, no surety is ready to produce Solvency Certificate for Rs.40,000/- and therefore, the said condition may be modified.

5. This Court earlier had an occasion to consider the application of similar nature and had clarified that only in cases of bail, sureties are expected to produce the Solvency Certificate and in case of return of property, it is sufficient to execute Bond as per Form 50 by the surety read with Rule 257 of Criminal Rules of Practice, 2019.

6. Therefore, it is sufficient that the surety shall execute a bond in Form-50 and there need not be any compulsion to produce solvency certificate by the surety to substantiate their undertaking.



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7. With the above clarification, the Criminal Original Petition is disposed of.

29.10.2024

Index: Yes/No
Internet: Yes/No
jv

To

1. The Additional District Judge/ Presiding Officer,
Special Court for Essential Commodities Act Cases,
Coimbatore.
2. The Inspector of Police,
Perundurai Police Station,
Erode District,
3. The Public Prosecutor,
Madras High Court,
Chennai 600 104.



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Dr.G.JAYACHANDRAN,J.

jv

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