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Crl.R.C.No.1873 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1873 of 2024

S.Balaji

... Petitioner

Vs.

State of Tamil Nadu,
Rep by its Inspector of Police,
P6 Kodungaiyur Police Station,
(Crime No.358/2024).

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 of Cr.P.C
r/w 438 of BNSS, to set aside the order dated 28.08.2024 passed in
Crl.M.P.No.8123/2024 on the file of the District Judge, Principal Special
Court under EC and NDPS Act and allow this revision petition.

For Petitioner : Mr.G.Balasubramanian

For Respondent : Mr.S.Balaji,
Government Advocate (Crl. Side)



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ORDER

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This revision challenges the dismissal of the order, dated 28.08.2024 in Crl.M.P.No.8123 of 2024 passed by the learned Principal Special Judge, Principal Special Court Under EC & NDPS Act, Chennai on the petition filed by the petitioner for return of mobile phone Oneplus 11R 5G Galactic Silver which was seized by the respondent Police in Crime No.358 of 2024 for offence under Section 8(c) r/w 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2.The allegation against the petitioner is that he was in possession of 2.5 grams of Methamphetamine. The respondent had seized the contraband along with the mobile phone Oneplus 11R 5G Galactic Silver on 17.05.2024. The petitioner had filed a petition for return of property before the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai in Crl.M.P.No.8123 of 2024 and the same was dismissed by impugned order, dated 28.08.2024 stating that the mobile phone cannot be returned as the petitioner would commit a similar offence by using the mobile phone.



3.The learned counsel for the petitioner would submit that the petitioner has no previous cases; and that the mobile phone said to have been seized from him has got nothing to do with the alleged offence committed by him; and that since it is an electronic goods, it would lose its utility value if it is not used.

4.The learned Government Advocate (Crl. Side) *per contra* submitted that the petitioner is likely to misuse the mobile phone; and that therefore the mobile phone should not be returned to him.

5.On perusal of the impugned order, this Court finds that the apprehension expressed is that the petitioner is likely to commit a similar offence by using the mobile phone. Admittedly, the petitioner is a first time offender. As rightly contended by the learned counsel for the petitioner that the mobile phone would lose its utility value if it is kept idle. Therefore, this Court is of the view that the mobile phone can be returned to the petitioner.



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6. Accordingly, this Criminal Revision Case is allowed and the impugned order, dated 28.08.2024 in Crl.M.P.No.8123 of 2024 passed by the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai 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 mobile phone Oneplus 11R 5G Galactic Silver to the petitioner on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.30,000/- (Rupees Thirty Thousand only), with two sureties each for a like sum to the satisfaction of the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai;

(ii) The petitioner shall not misuse the mobile phone Oneplus 11R 5G Galactic Silver for commission of any offence in future.



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(iii)The petitioner shall produce the mobile phone Oneplus 11R 5G

Galactic Silver as and when required by the respondent and by the Court below.

06.11.2024

Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No

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To

- 1.The Principal Special Judge,
Principal Special Court under EC & NDPS Act, Chennai.
- 2.The Inspector of Police,
P6 Kodungaiyur Police Station.
- 3.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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