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Crl.R.C.No.2004 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2004 of 2024

Kasiyammal

...

Petitioner

Vs.

The State Rep.by
Inspector of Police
Tiruvannamalai East Police Station,
Tiruvannamalai District - 606 601.
(CRIME NO.278 of 2024)

...

Respondent

Prayer: Criminal Revision Petition filed under Sections 438 r/w 442 of Bharatiya Nagarik Suraksha Sanhita, 2023 to set aside the dismissal order passed by the learned Special Judge for EC & NDPS Act Cases, at Salem in CMP No.1342 of 2024 dated 21.09.2024 and further directing the learned Special Judge for EC & NDPS Act Cases at Salem to return the petitioner's Two Wheeler bearing Regn.No.TN25 CB 8248 Royal Enfield Bullet 350 ES EFI Jet Black Colour to the petitioner.

For Petitioner : Mr.P.Thamaraiselvan

For Respondent : Mr.S.Udaya Kumar
Govt. Advocate (Crl.side)



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ORDER

The Revision challenges the dismissal of the petitioner's application filed for return of his two-wheeler bearing Regn.No.TN25 CB 8248 Royal Enfield Bullet 350 ES EFI Jet Black Colour.

2. The petitioner's son is said to have involved in the offence under Section 8(c) r/w 20(b) (ii) (B) of NDPS Act in Crime No.278 of 2024 for transporting 1.100 kgs. of ganja in the above mentioned two-wheeler. The petitioner sought for return of the said vehicle before the trial court and the trial court dismissed the said petition stating that since it is a case registered under NDPS Act, the vehicle used by the son of the petitioner is liable for confiscation and therefore she is not entitled for return of the vehicle.

3. The learned counsel for petitioner would submit that the vehicle was seized on 05.05.2024 and it is in the custody of the respondent and subjected to vagaries of the weather and kept idle in the police station. Hence, the value of the vehicle would diminish and would be reduced to scrap; that the petitioner is the proper person entitled to custody of the vehicle and therefore she may be permitted to take return of the two-wheeler and



undertook to abide by any stringent conditions imposed by this Court, subject to confiscation proceedings, if any initiated by the respondent.

4. The learned Government Advocate (crl.side), per contra submitted that the respondent is yet to take steps to initiate confiscation proceedings and that stringent conditions may be imposed for return of the vehicle, subject to confiscation proceedings.

5. Heard the learned counsel appearing for the petitioner as well as the Government Advocate (crl.side) and perused the records.

6. Admittedly, the petitioner is the owner of the vehicle and the vehicle was seized on 05.05.2024 and it is kept in the police station in an open place, subject to the vagaries of weather. The Hon'ble Supreme Court had held that in such cases, the interim custody of the vehicle can be handed over to the owner who is entitled to proper custody on conditions. Hence, this Court is of the view that the two-wheeler be returned to the petitioner.



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WEB COPY 7. Accordingly, this **Criminal Revision Case is allowed** and the impugned order dated 21.09.2024 passed by the learned Special Judge for EC & NDPS Act at Salem, in Crl.M.P.No.1342 of 2024 is set aside. In view of the same, the respondent is directed to return the vehicle bearing Regn.No.TN25 CB 8248, Royal Enfield Bullet 350 ES EFI Jet Black Colour to the petitioner, on the following conditions, subject to confiscation proceedings, if any initiated by the respondent.

(i) The petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for a likesum to the satisfaction of the learned Special Judge for EC & NDPS Act at Salem,

(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 Special Judge for EC & NDPS Act at Salem, 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;



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(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.

(v) The return of property would be subject to the result of the confiscation proceedings, if any.

05.12.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
rgr

To

1.The Special Judge for
EC & NDPS Act at Salem,

2.Inspector of Police
Tiruvannamalai East Police Station,
Tiruvannamalai District - 606 601.

3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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