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Crl.R.C.No.2264 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2264 of 2024

Sumathi

... Petitioner/owner of the vehicle

vs.

The State rep. by its
Inspector of Police,
Podhanur Police Station,
in Crime No.723/2022
Coimbatore Distirct.

...Respondent/complainant

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records and to set aside the order passed by the learned Additional District Judge/Presiding Officer/Special Court for Essential Commodities Act Cases, Coimbatore in C.M.P.No.3466 of 2024 dated 16.11.2024 and consequently direct the respondent police to return the Royal Enfield Two-Wheeler bearing Reg.No.TN-66-T-8870 Model Royal Enfield Two-Wheeler having which was seized by the respondent police in Crime No.723 of 2022 on the file of the respondent.

For Petitioner : Mr.P.Kalimuthu

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



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ORDER

The revision challenges the dismissal of the petitioner's application for return of the vehicle bearing Registration No.TN-66-T-8870.

2. It is the case of the respondent that the petitioner's son is involved in the offences under Sections 8(c) r/w. 20(b)(ii)(B) and 29(1) of NDPS Act in Crime No.723 of 2022. During the course of investigation, the vehicle was seized, as the accused had used the vehicle for carrying contraband, namely, 250 grams of Ganja. The petitioner sought for return of property and the same was dismissed by the trial Court on the ground that the petitioner's son is involved in another NDPS case and also involved in offence under Section 366 of IPC and Section 17, 5(i) and 6 of the POCSO Act.

3. The learned counsel for the petitioner would submit that though the vehicle was seized on 25.11.2022, the respondent had not taken any steps



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for confiscation; that the vehicle is kept idle in the police 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 hence, prayed for return of the vehicle.

4. The learned Government Advocate (Crl.Side), per contra submitted that the petitioner's son involved in a similar offence, which was registered in Crime No.266/2020 and also involved in a case registered for offence under Section 366 of I.P.C. and Section 17, 5(i) and 6 of POCSO Act.

5. Admittedly, the petitioner is the owner of the two wheeler. It appears that the petitioner's son had used the vehicle and is involved in another offence under NDPS Act. However, it is seen that though the vehicle was seized in November 2022, no confiscation proceedings have been



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initiated by the respondent so far. Hence, this Court is of the view that the vehicle cannot be kept idle in an open space and its value cannot be allowed to be diminished as held by the Hon'ble Supreme Court. Therefore, the interim custody of the vehicle can be handed over to the petitioner on stringent conditions.

6. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 16.11.2024 passed by the learned Additional District Judge/Presiding Officer/Special Court for Essential Commodities Act Cases, Coimbatore, in C.M.P.No.3466 of 2024 in Crime No.723 of 2022 is set aside. In view of the same, the respondent is directed to return the vehicle viz., Royal Enfield Two-Wheeler bearing Regn.No.TN-66-T-8870 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



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Additional District Judge/Presiding Officer/Special Court for
Essential Commodities Act Cases, Coimbatore;

(ii) The petitioner shall not permit her son to
misuse the vehicle for commission of any offence;

(iii) 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 her
ownership. The learned Additional District Judge/Presiding
Officer/Special Court for Essential Commodities Act Cases,
Coimbatore, shall peruse the RC book and other records,
retain a xerox copy of the same and return the original RC
book to the petitioner;

(iv) The petitioner shall not alter or alienate the
vehicle in any manner;

(v) The petitioner shall also give an undertaking
that she will produce the vehicle as and when required by the
respondent and by the court below;



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

11.12.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To

1.The Additional District Judge/Presiding Officer/
Special Court for Essential Commodities Act Cases,
Coimbatore.

2.The Inspector of Police,
Podhanur Police Station,
Coimbatore Distirct.

3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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