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Crl.R.C.No.2356 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2356 of 2024

Aathi @ Aathithya

... Petitioner/A5/Owner of the property

vs.

The State by

The Inspector of Police,

Kuniyamuthur Police Station,

Coimbatore District.

Crime No.163/2024

...Respondent/complainant

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records relating to the order dated 19.11.2024 made in Crl.M.P.No.3388 of 2024 passed by the learned Additional District Judge/Presiding Officer, Special Court for EC Act Cases, Coimbatore and set aside the same by allowing this Criminal Revision Petition.

For Petitioner : Mr.N.Ponraj

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



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ORDER

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The revision challenges the dismissal of the petitioner's application for return of property filed under Sections 497 r/w 503 of BNSS Act, 2023.

2. The petitioner is A5 in Crime No.163 of 2024 registered for offence under Sections 8(c) r/w. 20(b)(ii)(A), 22(b) and 25 of NDPS Act.

During the course of investigation, the vehicle of the petitioner bearing Registration No.TN-63-CY-3969 was seized from A1 for carrying the contraband, namely, 160 grams of Ganja and 3 grams of Methamphetamine.

The petitioner sought for the return of property stating that he is not involved in the offence and he has been wrongly arrayed as accused and that since the date of seizure, i.e., on 19.05.2024, 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. The learned Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore had dismissed the



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said petition on the ground that the vehicle is involved in the offence under NDPS act and that the petitioner has not explained as to how and why the vehicle was handed over to A1.

3. The learned Government Advocate (Crl.Side), on instructions, would submit that the petitioner has no previous cases and no confiscation proceedings are initiated so far.

4. Considering the submissions made on either side and since the vehicle of the petitioner is kept idle in the police station 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.

5. The Hon'ble Supreme Court in ***Sainaba Vs. 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 Gujrath reported in 2002 10***



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SCC 283” released the vehicle which was involved in the offence under Section NDPS Act. It is seen that though this Court in Crl.R.C.(MD) No.41 of 2019, the order dated 16.06.2023 had dismissed the petition for release of vehicle involved in offence under the NDPS Act, the Judgement of the Hon'ble Supreme Court in *Sainaba's case* (cited supra) was not brought to the notice of this Court. In view of the decision of the Hon'ble Supreme Court, this Court is inclined to consider the petition for return of vehicle.

6. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 19.11.2024 passed by the learned Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore in Crl.M.P.No.3388 of 2024 in Crime No.163 of 2024 is set aside. In view of the same, the respondent is directed to return the vehicle viz., YAMAHA R15 Vivid Red Cocktail 1 colour Two wheeler bearing Registration No.TN-63-CY-3969 to the petitioner on the following conditions:



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

(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 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;

(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.



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

20.12.2024

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,
Kuniyamuthur Police Station,
Coimbatore District.

3.The Public Prosecutor,
High Court, Madras.

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