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Crl.R.C.No.177 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29/1/2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.177 of 2025

Saran

...

Petitioner

Vs

The Inspector of Police
PEW Gummidipoondi
Tiruvallur District.

...

Respondent

PRAYER: Criminal Revision Petition filed under Section 438 r/w. 442 BNSS to set aside the order dated 11/12/2024 made in Crl.M.P.No.13785 of 2024 on the file of the learned Principal Special Court for NDPS Act Cases at Chennai.

For Petitioner
For Respondent

...

...

Mr.M.S.Ramesh
Mr.S.Udaya Kumar
Government Advocate
(Crl.Side)

ORDER

The revision challenges the dismissal of the petitioner's application filed under Section 497 of BNSS for return of Volkswagen Polo car bearing registration No.TN-54-E-1235, which was seized by the respondent Police.



2. A First Information Report was registered in Crime No.300 of 2023 for the alleged offence under Sections 8 (c) r/w. 20 (b) (ii) (B), 25 and 29 (1) of the NDPS Act against the petitioner and two other accused for illegal possession of 21 kgms of ganja. During the course of investigation, the petitioner's vehicle which was used for transporting contraband was seized.

3. The petitioner sought for return of vehicle before the learned Principal Special Judge. The learned Judge dismissed the said petition on the ground that the petitioner was involved in possession of commercial quantity of contraband and if the vehicle is returned, he would indulge in similar offences.

4. The learned counsel appearing for the petitioner would submit that the vehicle is kept idle ever since the date of seizure on 17/7/2023; that the petitioner has no previous cases and he would abide by any stringent conditions for return of vehicle.

5. The learned Government Advocate (Criminal Side) on instructions would submit that there are no previous cases against the petitioner and that confiscation proceedings have not yet been initiated.



6. The Honble Supreme Court in a recent decision (*Bishwajit Dey v.*

The State of Assam (Crl.Appeal No.87 of 2025 dated 07.01.2025)), has held

that there is no bar in granting interim custody of the vehicle seized in a case registered under the NDPS case to its owner. The relevant observations read as follows:

“22. This Court is further of the opinion that there is no specific bar/restriction under the provisions of the NDPS Act for return of any seized vehicle used for transporting narcotic drug or psychotropic substance in the interim pending disposal of the criminal case.

23. In the absence of any specific bar under the NDPS Act and in view of Section 51 of NDPS Act, the Court can invoke the general power under Sections 451 and 457 of the Cr.P.C. for return of the seized vehicle pending final decision of the criminal case. Consequently, the trial Court has the discretion to release the vehicle in the interim. However, this power would have to be exercised in accordance with law in the facts and circumstances of each case.”

7. Considering the aforesaid submissions made on either side and also considering the fact that the petitioner is the owner of the vehicle, this Court is inclined to handover the interim custody of the vehicle to the petitioner, on the following conditions:-



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(i). The petitioner shall execute a bond for a sum of Rs.3,00,000/- (Rupees Three lakhs only) with two sureties to the satisfaction of the learned Principal Special Judge (FAC), I Additional Special Judge, Chennai;

(ii)The petitioner shall produce the original RC Book along with self attested photostat copy of RC Book of the vehicle and other relevant records to prove his ownership. The learned Principal Special Judge shall peruse the RC book and other records, retain 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 till adjudication is over;

(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.



Crl.R.C.No.177 of 2025

8. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 11/12/2024 passed by the learned Principal Special Judge (FAC), I Additional Special Judge, Chennai, in Crl.M.P.No.13785 of 2024 in Crime No.300 of 2023 is set aside.

29/1/2025

mvs.

To

1. The Principal Special Judge
(Special Court under EX & NDPS Act, Chennai.
2. The Inspector of Police
PEW Gummidipoondi
Tiruvallur District.
3. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J

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Crl.R.C.No.177 of 2025

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