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Crl.R.C. No. 146 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2025

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.R.C. No. 146 of 2025

Dharuman

..Petitioner

Vs.

State by
Inspector of Police,
Marandahalli Police Station,
Dharmapuri District.
(Crime No. 137 of 2024)

..Respondent

Prayer: Criminal Revision Case filed under Sections 438 & 442 of BNSS to call for the records of the impugned order dated 30.12.2024 made in C.M.P. No. 1631 of 2024 passed by the learned Special Judge for EC/NDPS Act cases, Salem and set aside the same and consequently return the vehicle, two-wheeler TVS Zest 110 bearing Registration No. TN-29-CS-1289 concerned in Crime No. 137 of 2024 on the file of the respondent to the custody of the petitioner herein.

For Petitioner :: Mr.M.R. Elavarasan

For Respondent :: Mr.S. Udayakumar,
Govt. Advocate (Crl.Side)

O R D E R



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The criminal revision challenges the dismissal of the petitioner's application filed under Section 457 Cr.P.C. seeking return of two-wheeler namely TVS Zest 110 bearing Registration No. TN 29 CS 1289.

2. An FIR was registered in Crime No. 137 of 2024 against a few persons for possession of 1100 gms of Ganja and that they had transported the said contraband in the vehicle belonging to the petitioner.

3. During the course of investigation, the vehicle was seized. Claiming ownership of the vehicle, the petitioner sought return of the vehicle by filing C.M.P. No. 1631 of 2024 but the same was dismissed by the Trial Court on the ground that the vehicle was involved in an offence under NDPS Act.

4. Learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle; that he is not an accused; that there are no previous cases against the persons accused of the offence; that since the vehicle is kept idle at the Police Station from 02.07.2024, subjected to vagaries of weather, its value would get diminished and that the vehicle may be returned to the petitioner by imposing stringent conditions.



5. Learned Government Advocate (Crl.Side), on instructions, would submit that the petitioner is not an accused and that confiscation proceedings are yet to be initiated.

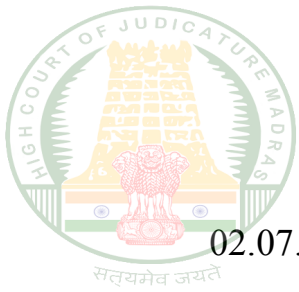
6. The Hon'ble Supreme Court in the judgment rendered in ***Bishwajit Dey V. State of Assam*** reported in **2025 SCC OnLine SC 40** held that, '*there is no bar in granting interim custody of the vehicle seized in a case registered under the NDPS case to its owner*'. The relevant observations read as 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 should have to be exercised in accordance with law in the facts and circumstances of each case.'

Thus, there is no bar for returning the vehicle even if the said vehicle was used for transporting narcotic drug.

7. Considering the fact that confiscation proceedings have not been initiated so far and the vehicle is kept idle at the Police Station since



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02.07.2024, this Court is inclined to hand over interim custody of the vehicle to the petitioner.

8. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 30.12.2024 passed by the learned Special Judge for EC/NDPS Act cases, Salem in C.M.P.No.1631 of 2024 in Crime No.137 of 2024 is set aside. In view of the same, the respondent is directed to return the vehicle viz., TVS Zest 110 bearing Registration No. TN 29 CS 1289 to the petitioner on the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.30,000/- (Rupees Thirty Thousand only) with two sureties for a likesum to the satisfaction of the learned Special Judge for EC/NDPS Act cases, 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 cases, 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;



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(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 initiated by the respondent in future.

28.01.2025

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To

1. The Special Judge for EC/NDPS Act Cases,
Salem.
2. Inspector of Police,
Marandahalli Police Station,
Dharmapuri District.
3. The Public Prosecutor,
High Court, Madras.

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