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Crl.R.C.No.329 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.329 of 2025

Kalaiselvi

... Petitioner

..VS..

State Rep.by
Inspector of Police,
Sathuvacheri Police Station,
Vellore District,
Crime No.85 of 2024.

... Respondent

Criminal Revision Case filed under Sections 438 and 442 of BNSS Act, 2023, to call for the records relating the order dated 10.12.2024 made in Crl.M.P.No.1714 of 2024 in Crime No.85 of 2024 on the file of the learned Special Judge for EC/NDPS Act Cases, Salem and set aside the same and direct the respondent herein to return the vehicle namely Suzuki Acces 125 CC, Reg.No.KA 55 V 8839.

For Petitioner	:	Mr.A.Saranraj
For Respondent	:	Mr.S.Sugendran Additional Public Prosecutor



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ORDER

This Criminal Revision Petition is filed against order dated 10.12.2024 passed in Crl.M.P.No.1714 of 2024 by the learned Special Judge for EC/NDPS Act Cases, Salem and to direct the respondent-Police to return the vehicle, namely, Suzuki Acces 125 CC, bearing Registration No.KA 55 V 8839.

2. The case of the petitioner is that the petitioner's two wheeler bearing Registration No. KA 55 V 8839 was seized by the respondent-Police in connection with Crime No.85 of 2024 for allegedly transporting 1.200 kgs of Ganja. Therefore, the petitioner filed a petition in C.M.P.No.1714 of 2024 before the Special Judge for EC/NDPS Act Cases, Salem, for interim custody of the two wheeler and the same was dismissed on 10.12.2024. Hence, the present Revision Petition is filed.

3. Learned counsel for the petitioner submitted that the petitioner is the owner of the subject vehicle and he is not involved in the alleged



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offence either directly or indirectly and that the said vehicle has been misused by the accused without the knowledge of the petitioner. He further submitted that if the vehicle in question is left idle in the open space and exposed to sun and rain, the condition of the vehicle would be deteriorated and the value of the vehicle would be lost, thereby, putting the petitioner to great loss and hardship and hence, he seeks interim custody of the vehicle and that he would abide by stringent conditions, if any, that may be imposed on him.

4. Learned Additional Public Prosecutor appearing for the respondent-Police submitted that after completion of investigation, charge sheet was filed through e-filing on 19.04.2024, vide, e-filing No.LTN-20230000345/C202400313 before the Judicial Magistrate, Vellore and subject property was also produced before the Court below, vide C.P.No.130 of 2024 on 08.04.2024. The confiscation proceedings are yet to be initiated.

5. Heard both sides and perused the materials available on record.



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6. Considering the facts and circumstances and also considering the submissions made by the learned Additional Public Prosecutor, this Court finds that the petitioner is owner of the vehicle in question and he is not an accused. Already, investigation is over, and charge sheet was also filed and subject property was also produced before the Court below. Therefore, in view of the decision of the Hon'ble Supreme Court in the case of *Sunderbhai Ambalal Desai Vs. State of Gujarat reported in (2002) 10 SCC 283*, the trial Court is directed to return the vehicle in question to the petitioner on the following conditions:

(i) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records, shall retain the Xerox copy of the same and return the original documents to the petitioner with a view to use the vehicle;

(ii) The petitioner shall not alter or alienate the vehicle in question in any manner till confiscation proceedings are over;

(iii) The petitioner is directed to deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand Only)** before the trial Court to the credit of Crime No.85 of



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2024 and on such payment and production of proof, the vehicle shall be returned to the petitioner;

(iv) The petitioner shall also give an undertaking affidavit to the effect that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent or the Court below as well as by the District Collector of the District or authorized officer in that behalf by the Government;

(v) The petitioner shall participate in the confiscation proceedings, if any initiated, and shall produce the vehicle, before the confiscation authority.

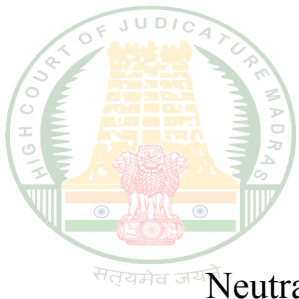
(vi) This order is subjected to the confiscation proceedings.

7. With the above directions, this Criminal Revision Petition is allowed by setting aside the order dated 10.12.2024 passed in Crl.M.P.No.1714 of 2024 by the learned Special Judge for EC/NDPS Act Cases, Salem.

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Index: Yes/No
Speaking Order/Non Speaking Order

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Neutral Case Citation : Yes / No

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To

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



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P.VELMURUGAN, J.

ms

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