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Crl.R.C.No.1603 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1603 of 2023

Deepan

... Petitioner/A2

Vs.

The State

Rep. by the Inspector of Police,
T-15, SRMC Police Station,
Chennai.

... Respondent/complainant

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C. to set aside the order dated 27.06.2023 made in Crl.M.P.No.3866 of 2023 on the file of the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai and direct the respondent police to return the vehicle Bajaj Auto bearing Regn.No.TN07 CH 3745 to the petitioner.

For Petitioner : Mr.R.Hariharan

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



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ORDER

The petitioner aggrieved by the dismissal of his petition filed for return of his vehicle viz., Bajaj Auto bearing Regn.No.TN07 CH 3745, which was seized during the course of investigation in Cr.No.665 of 2022 for the offences under Sections 8(c) r/w 22(b), 25 and 29(1) of NDPS Act.

2. The petitioner is arrayed as A2 in the FIR. The allegation is that he was in possession of tablets viz., 630 numbers of Witadol tablets, 200 numbers of Nitroxit and 170 number of Etadol along with A1 and his vehicle viz., Bajaj Auto bearing Regn.No.TN07 CH 3745, was used for transporting the said contraband. The petitioner sought for return of the vehicle. The said petition was dismissed by the trial Court stating that if the vehicle is returned to the petitioner, he would indulge in similar offences.

3. The learned counsel for the petitioner would submit that the vehicle is kept idle in the police station in an open place ever since the date of seizure



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i.e., from 01.12.2022, thereby the value of the vehicle is diminishing and if the vehicle is not returned, it would be reduced to a scrap; and that the petitioner is ready to comply with any condition that this Court may impose and prayed for return of the vehicle.

4. The learned Government Advocate (Crl.Side), for the respondent *per contra* on instructions fairly concedes that the seized contraband was sent for forensic analysis and it was reported that it was neither a narcotic drug nor a psychotropic substance.

5. In the light of the above submissions, 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. The petitioner is the owner of the vehicle and therefore, he is the proper person entitled to the custody of the vehicle.

6. Further, though, the learned Government Advocate (Crl.Side) would



submit that the report is in favour of the petitioner, the final report is yet to be filed. In any case, 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. Therefore, this Criminal Revision Case is allowed and the impugned order dated 27.06.2023 passed by the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai, in Crl.M.P.No.3866 of 2023



in Crime No.665 of 2022 is set aside. In view of the same, the respondent is directed to return the vehicle viz., Bajaj Auto bearing Regn.No.TN07 CH 3745 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 Principal Special Judge, Special Court under EC & NDPS Act, Chennai;

(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 Principal Special Judge, Special Court under EC & NDPS Act, Chennai, 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.

(v) The return of property would be subject to the result of the confiscation proceedings, if any.



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Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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Note: Issue Order copy by 20.01.2025.



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SUNDER MOHAN, J.

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To

1.The Principal Special Judge,
Principal Special Court under EC & NDPS Act,
Chennai.

2.The Inspector of Police,
T-15, SRMC Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

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