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CrI.R.C.No.115 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.R.C.No.115 of 2025

Jagadish

...Petitioner/Petitioner

Vs.

State by the Inspector of Police,
J-7, Velachery Police Station,
Chennai.

...Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C., to call for the records pertaining to the impugned order in CrI.M.P.No.825 of 2024 in Crime No.231 of 2023 dated 08.02.2024 on the file of the Principal Special Court under EC and NDPS Act, at Chennai and set aside the same.

For Petitioner : Mr.Krishen.M.

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



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ORDER

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The revision challenges the dismissal of the petitioner's application filed under Section 451 of the Cr.P.C.

2. An FIR was registered in Crime No.231 of 2023, for the alleged offences under Sections 8(c) r/w 20(b)(ii)(B), 25 and 29(1) of the NDPS Act, on the allegation that the petitioner/A1/owner of the vehicle, along with other co-accused, was found in possession of 1.100 kgs of ganja and 100 No's of Tydol tablets.

3. During the course of the investigation, the petitioner's vehicle, i.e., **Yamaha MT 15**, bearing Reg.No.TN07-DD-0837, which was used for the transportation of the contraband, was seized. The petitioner filed the petition for return of the vehicle before the trial Court. The said petition was dismissed on the ground that the petitioner was likely to commit similar offences; and that since the vehicle was used for the commission of the NDPS Act, the vehicle cannot be returned.



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4.Mr.Krishen.M, the learned counsel for the petitioner, would submit that the petitioner has no previous cases; that the vehicle has been kept idle in the police station ever since the date of seizure, i.e., on 17.06.2023, 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.

5. Mr.S.Udaya Kumar, the learned Government Advocate (Crl.Side), for the respondent, on instructions, would submit that the petitioner has no previous cases; and that the confiscation proceedings have not been initiated so far.

6. The Hon'ble 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:



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“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. In the light of the above observations of the Hon'ble Supreme Court and the submissions made on either side, since the petitioner has no previous cases and the vehicle is kept idle at the police Station from 17.06.2023, this Court is inclined to hand over the interim custody of the vehicle to the petitioner.



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8. Therefore, this Criminal Revision Case is allowed and the impugned order dated 08.02.2024 passed by the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai, in Crl.M.P.No.825 of 2024 in Crime No.231 of 2023 is set aside. In view of the same, the respondent is directed to return the bike/vehicle, viz., Yamaha MT 15, Pastel Dark Gray, bearing Reg.No.TN07-DD-0837, 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;



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(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.

24.01.2025

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

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Note: Issue Order copy by 29.01.2025.



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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,
J-7, Velachery Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

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