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CrI.R.C.No.41 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.R.C.No.41 of 2025

M.Vinayagamoorthy

... Petitioner/Owner of the property

vs.

State rep. by

The Inspector of Police,

Roshanai Police Station,

Villupuram District.

(Crime No.462 of 2024)

...Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 438(1) r/w 442 of BNSS, to call for the records and set aside the order passed in CrI.M.P.No.4740 of 2024 on the file of the learned Judicial Magistrate-I, Tindivanam in Crime No.462 of 2024 on the file of the respondent dated 29.10.2024 and direct the respondent to release the Yamaha R15 Motor Cycle bearing Registration No.TN-16-C-4795 and allow this Criminal Revision Petition.

For Petitioner : Mr.G.Tamilselvan

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



Crl.R.C.No.41 of 2025

WEB COPY

ORDER

The revision challenges the dismissal of the petitioner's application filed for return of his vehicle, which was seized during the course of investigation in Crime No.462 of 2024 for offences under Sections 123 of BNS r/w 8(c), 20(b)(ii)(A) of Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

2.The F.I.R. was registered against the son of the petitioner for possession of unauthorized medicines (Tapentadol Hydrochloride Tab, Insulin needle and Non Pyrogenic Sterile). During the course of investigation, the vehicle, which was used by the petitioner's son was seized. The petitioner being the owner of the vehicle, had sought for return of the vehicle, which was dismissed on the ground that the petitioner is likely to alienate the vehicle before the conclusion of the trial.



Crl.R.C.No.41 of 2025

WEB COPY

3.The learned counsel for petitioner would submit that the vehicle is kept idle in the police station ever since the date of seizure and subjected to the vagaries of weather, which would diminish its value and hence, prayed for return of vehicle.

4. The learned Government Advocate (Crl. Side), on instructions, would submit that the petitioner is not an accused in this case and confiscation proceedings are yet to be initiated.

5. Considering the submissions made on either side and since the vehicle of the petitioner is kept idle in the police station and that the petitioner is not an accused in this case, this Court is inclined to grant interim custody of the vehicle to the petitioner.

6. The Hon'ble Supreme Court in ***Sainaba Vs. The State of Kerala and another in Criminal Appeal No.2005/2022 [SLP (CRL.) No.72080/2022]*** by following the Judgment of the Apex Court in the case of



Crl.R.C.No.41 of 2025

“Sunderbhai Ambalal Desai Versus State of Gujrath reported in 2002 10

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SCC 283” released the vehicle which was involved in the offence under Section NDPS Act. It is seen that though this Court in Crl.R.C.(MD) No.41 of 2019, the order dated 16.06.2023 had dismissed the petition for release of vehicle involved in offence under the NDPS Act, the Judgement of the Hon'ble Supreme Court in ***Sainaba's case*** (cited supra) was not brought to the notice of this Court. In view of the decision of the Hon'ble Supreme Court, this Court is inclined to consider the petition for return of vehicle.

7. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 29.10.2024 passed by the learned Judicial Magistrate-I, Tindivanam in C.M.P.No.4740 of 2024 in Crime No.462 of 2024 is set aside. In view of the same, the respondent is directed to return the vehicle viz., Yamaha R-15 Motor Cycle bearing Registration No.TN-16-C-4795 to the petitioner on the following conditions:



Crl.R.C.No.41 of 2025

WEB COPY

(i) The petitioner shall execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate-I, Tindivanam;

(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 Judicial Magistrate-I, Tindivanam, 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.



WEB COPY



Crl.R.C.No.41 of 2025

SUNDER MOHAN, J.

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(v) The return of property would be subject to the result of the confiscation proceedings, if any initiated by the respondent in future.

09.01.2025

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To

1.The Judicial Magistrate-I,
Tindivanam.

2.The Inspector of Police,
Roshanai Police Station,
Villupuram District.

3.The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.41 of 2025