



Crl.R.C.No.2389 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2389 of 2024

Reactra Technology
Proprietor
N.Manikandan

... Petitioner

Vs.

State Rep. by :
The Inspector of Police,
R9, Valasaravakkam Police Station
Chennai
(Crime No.758 of 2024)

... Respondent

PRAYER: Criminal Revision Case filed under Section 438 & 442 of B.N.S.S, 2023, seeking to set aside the order passed by the Principal Special Court under EC & NDPS Act, Chennai in Crl.M.P.No.13703 of 2024 by an order dated 17.12.2024.

For Petitioner : Mr.P.Veera Narayanan

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



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ORDER

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The petitioner aggrieved by the dismissal of his petition filed for return of his car bearing Reg. No.TN85-B-4212, has preferred the instant Revision. It is a case of the respondent that the petitioner is an accused found in possession of 8 Kgs of ganja and a case was registered in Crime No.758 of 2024, for the alleged offence under Section 8(c) r/w 20(b)(ii)(B), 25 and 29(1) of the NDPS Act. During the course of investigation, the said vehicle was seized by the respondent, since the vehicle was used for transporting the contraband.

2.The petitioner sought for return of the said vehicle before the learned Principal Special Judge (FAC), which was dismissed by order dated 17.12.2024 on the ground that the case property is required for the purpose of trial and that the petitioner had not produced any document to show that he is the owner of the vehicle.

3.Learned counsel for the petitioner would submit that the registration certificate would reveal that the vehicle is in the name of Reactra



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Technology; and the petitioner is its proprietor; that the petitioner has no previous cases; that ever since the date of seizure, the vehicle is kept idle; and that in view of the recent judgement of the Hon'ble Supreme Court there is no bar for returning the vehicle even if it is involved in an offence under the NDPS Act.

4.Learned Public Prosecutor on instructions would submit that no confiscation proceedings have been initiated so far, and that there are no previous cases against the petitioner.

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. On a perusal of the Registration Certificate, it is seen that the petitioner is the proprietor of Reactra Technology, and the vehicle also stands in the name of Reactra Technology. Since the petitioner is the owner of the vehicle, he is the proper person entitled to the custody of the vehicle.



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6. 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



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order dated 17.12.2024 passed by the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai, in CrI.M.P.No.13703 of 2024 in Crime No.758 of 2024 is set aside. Since the petitioner had established that he is the owner of the vehicle, the respondent is directed to return the vehicle viz., Honda Amaze Car (Sedan) bearing Regn. No.TN85-B-4212 to the petitioner on the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.3,00,000/- (Rupees Three Lakhs 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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SUNDER MOHAN, J.

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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.

20.01.2025

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Note: Issue Order copy by 22.01.2025

To

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

2.The Inspector of Police,
R9, Valasaravakkam Police Station
Chennai

3.The Public Prosecutor,
High Court, Madras.

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