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Crl.R.C(MD)No.12 of 2025



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.01.2025

Pronounced on : 11.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.12 of 2025

Nabisa Begam

... Petitioner

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Thiruvaiyar Police Station,
Thanjavur District.
(Crime No.498 of 2024)

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, 2023, to call for the records and set aside the order dated 18.11.2024 made in Cr.M.P.No.7216 of 2024 on the file of the Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur.

For Petitioner : Mr.C.Senthil Murugan

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



ORDER

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This Criminal Revision Case is filed against the order, dated 18.11.2024, passed in Crl.M.P.No.7216 of 2024 on the file of the learned Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur, for return of two wheeler bearing registration number TN 49 CP 0459, which was seized by the respondent police in Crime No.498 of 2024.

2.The brief facts of the case:

It is alleged that on 21.09.2024 at 10.15 a.m., the respondent police found two persons with ganja and diazepam powder in the two wheeler bearing registration number TN-49-CP-0459. For the alleged occurrence, a case was registered in Crime No.498 of 2024 by the respondent police against them for the offence under Sections 8(c) r/w 20(b)(ii)(B) and 22(a) of the NDPS Act. The respondent seized 1.110 kg of ganja and 150 gram of diazepam powder and also seized the vehicle. The petitioner, who is said to be the owner of the vehicle, has filed the petition in Crl.M.P.No.7216 of 2024 before the Additional District Court/Special Court under the Essential Commodities Act, Thanjavur, for return of property on interim custody. After hearing both sides, the petition was dismissed on 18.11.2024.



3. Being aggrieved by the order, the revision petitioner preferred this Criminal Revision Case.

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4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the records in this Criminal Revision Case.

5. The learned counsel appearing for the revision petitioner has submitted that the petitioner is not an accused in this case. The petitioner's vehicle is not involved in this crime. The petitioner's vehicle was seized by the respondent police and the same has been kept idle in the respondent's police station without any maintenance. The petitioner's vehicle is kept idle in open place from the date of seizure and the vehicle will get ruined by sunlight and rain and it would lose its value. The trial Court has not considered the guidelines in the case of return of property as settled by the Hon'ble High Court and Supreme Court.

6. The learned Additional Public Prosecutor appearing for the respondent objected and contended that the vehicle was remanded before the trial Court in RPRNo.79/2024 and confiscation proceedings has not



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been initiated so far and the same is pending for process. The vehicle was seized with contraband. If the interim custody of the vehicle is ordered, there are more possibilities for not cooperating for investigation and the petitioner may alter the physical conditions of the vehicle. The trial Court has correctly appreciated the facts of the case and dismissed the petition. Therefore, he strongly opposed this petition.

7. On hearing both sides, it is clear that the petitioner is not an accused in this case. The petitioner's vehicle was seized under NDPS Act and the same has been in police custody. It is also clear that the property in question was remanded before the trial Court under RPRNo.79/2024. It is the settled principle by the Hon'ble Supreme Court held in **Sunderbhai Ambalal Desai** case, there is no use in keeping seized vehicles at police station in open place exposing to sunlight and rain for a long period and it is open to pass appropriate orders for return of seized vehicles on conditions.

8. The learned Single Judge of the Principal Seat of this Court has also ordered for release of vehicle involved in NDPS Cases for interim custody in Crl.R.C.Nos.1010 of 2023, 993 of 2023, 787 of 2023, 562 of 2023 and 1241 of 2023 and by following the above, this Court has also



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ordered in Crl.R.C(MD)No.1251 of 2023 on 05.03.2024 for release of vehicle seized under NDPS Act. In a recent case, the Hon'ble Supreme Court has held that if no specific allegation is made against the owner or his agent like driver or cleaner in nature of this crime the vehicle should normally be released and the decision is reported in **CDJ 2025 SC 040 (Bishwajit Dey /v/ State of Assam)**.

9. In the case on hand, there is no allegation on the respondent side that the petitioner has participated in the offence or has knowledge of the alleged transaction. In the above facts and circumstances and also in view of the guidelines issued in the **Sunderbhai Ambalal Desai** case reported in **2003 (1) CTC 175**, this Court is inclined to allow this criminal revision case and to return the seized two wheeler to the petitioner on interim custody on conditions.

10. Accordingly, this Criminal Revision Case is allowed and the order, dated 18.11.2024 passed in Crl.M.P.No.7216 of 2024 on the file of the learned Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur, is hereby set aside. The two wheeler bearing registration No.TN-49-CP-0459 is ordered to be returned to the petitioner on interim custody subject to the confiscation



proceedings to be taken by the concerned department or by the Court on the following conditions.

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(i) The petitioner shall execute a bond for a sum of Rs.**50,000/- (Rupees Fifty Thousand only)** with two sureties for the like sum to the satisfaction of the learned Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur;

(ii) The vehicle shall be photographed in different angle and the engine and chassis number shall also be photographed in the presence of the Head Clerk of the learned Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur at the cost of the petitioner and the petitioner's signature to be obtained in the back side of the photographs and the said photographs and CD shall be kept in the case bundle for the purpose of marking them as material objects during trial;

(iii) The petitioner shall deposit the original Registration Certificate of the vehicle before the learned Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur;

(iv) The petitioner shall produce the vehicle before the learned Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur monthly once i.e., on the first working



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day of every month and before the respondent police as and when required;

(v) The petitioner shall participate to the confiscation proceedings which is to be initiated or in case of pending and shall produce the vehicle before the confiscation authority.

(vi) The petitioner shall not dispose or alienate or change the physical features of the vehicle till the disposal of the case or till the disposal of the confiscation proceeding.

(vii) The petitioner shall cooperate with the trial Court for disposal of the case and also to complete the confiscation proceedings.

11. The order passed in this revision will not be a bar to the authorities concerned in proceeding with the confiscation proceedings.

This order is subject to the outcome of the confiscation proceedings.

11.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD



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To

- 1.The Additional District Judge/Presiding Officer,
Special Court under Essential Commodities Act,
Thanjavur.
- 2.The State of Tamil Nadu rep. by
The Inspector of Police,
Thiruvaiyar Police Station,
Thanjavur District.
(Crime No.498 of 2024)
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.12 of 2025

11.03.2025