



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous (Petition) No. 5466/2024
URN: CRLMP / 11178U / 2024

Imran Mansoori Son of Shri Irfan Mansoori, Resident of Rja
Nagar, Police Station Borkhera, District Kota (Raj).

-----Accused-Petitioner

Versus

State of Rajasthan, through P.P.

-----Respondent



For Petitioner(s) : Mr.Rajneesh Gupta
For Respondent(s) : Mr.Manvendra Singh Shekhawat, PP

JUSTICE ANOOP KUMAR DHAND
Order

14/07/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 25.04.2023, passed by the Court of the Additional Chief Judicial Magistrate, (First Class) No.5, Kota in Case No.955/2022, by which the application submitted by the petitioner for getting *supurdagi* of the seized mobile phone and money has been partly allowed to the extent of release of the mobile phone only.
2. Aggrieved by the aforesaid order, a revision petition was submitted by the petitioner before the Court of the Additional Sessions Judge No.5, Kota (hereinafter referred to as the 'the Revisional Court'), however, the same was also rejected vide impugned order dated 02.07.2024. Hence, aggrieved by both the aforesaid orders, the petitioner has approached this Court by way of filing the instant petition.
3. Learned counsel for the petitioner submits that an F.I.R. bearing No.506/2021 was registered against the petitioner at the



Police Station Gumanpura, District Kota City for the offence punishable under Section 13 of the Rajasthan Public Gambling Ordinance, 1949 (for short, "the RPGO"), wherein the mobile phone of the petitioner along-with a sum of Rs.7,35,000/- was seized by the Police and thereafter, the petitioner was charge-sheeted before the Court of the Additional Chief Judicial Magistrate, (First Class) No.5, Kota.



4. Counsel submits that during pendency of the trial, the Department of Home, Government of Rajasthan decided to withdraw the aforesaid criminal case, which was lying pending against the petitioner before the Court of the Additional Chief Judicial Magistrate, (First Class) No.5, Kota and also issued a Circular dated 11.11.2022 in this regard.

5. Counsel submits that pursuant to the aforesaid Circular, the prosecution against the petitioner was rendered as withdrawn by the State vide order dated 12.11.2022 and the petitioner was acquitted of the charge under Section 13 of the RPGO. Counsel submits that under the changed circumstances, an application was submitted by the petitioner for the release of his seized mobile phone along-with the aforesaid seized sum of money, however, the said application has been partly allowed by the Court below by the impugned order dated 25.04.2023 and it was ordered to release the seized mobile phone only, after removing the data, however, the seized sum of money has not been ordered to be released in favour of the petitioner.

6. Counsel submits that the Revisional Court has rejected the revision petition of the petitioner on the ground that the seized amount is the money pertaining to gambling, hence, the same



cannot be released unless the offence is tried. Counsel submits that once the prosecution against the petitioner has been withdrawn, there is no question or occasion available to make such observation for conducting trial against the petitioner. Hence, interference of this Court is warranted.

7. *Per contra*, learned Public Prosecutor opposed the prayer raised by counsel for the petitioner.

8. Heard and considered the submissions made at the Bar and perused the material available on record.

9. Perusal of the record indicates that when the aforesaid F.I.R. was registered against the petitioner under Section 13 of the RPGO, his mobile phone along-with certain amount, i.e., a sum of Rs.7,35,000/- was seized by the Investigating Agency and thereafter, the petitioner was charge-sheeted for the above stated offence before the Court of the Additional Chief Judicial Magistrate, (First Class) No.5, Kota. This fact is not in dispute that during pendency of the aforesaid criminal case, the Department of Home, Government of Rajasthan decided to withdraw the aforesaid criminal case registered against the petitioner and also issued a Circular dated 11.11.2022 in this regard. Pursuant to the aforesaid, an application was submitted by the Public Prosecutor under Section 321 Cr.P.C. to withdraw the aforesaid case and accordingly, the order dated 12.11.2022 was passed and the prosecution against the petitioner was allowed to be withdrawn by the Court of the Additional Chief Judicial Magistrate, (First Class) No.5, Kota.

10. Under these circumstances, an application was submitted by the petitioner seeking release of the seized mobile phone as well



as the seized sum of money. The said application was partly allowed by the Trial Court, vide impugned order dated 25.04.2023 and only the seized mobile phone was ordered to be released in favour of the petitioner, after removing the data, but the seized amount has not been ordered to be released and no justified reason has been given by the Trial Court, while not accepting the prayer made by the petitioner with regard to release of the seized sum of money. The Revisional Court has recorded a finding that once the offence of gambling has been committed and the amount has been seized, the same cannot be released unless the matter is tried, even if the matter is withdrawn by the State Government.

11. Such observation made by the Revisional Court is foreign to the procedure established by law, as once the petitioner has been acquitted on the basis of the withdrawal of criminal case registered against him, there was no reason or occasion to retain the seized amount in the Treasury or in the Government Fund.

12. Considering the overall facts and circumstances of the case, the impugned orders dated 25.04.2023 and 02.07.2024 passed by the Courts below are not sustainable and are liable to be and are hereby quashed and set aside in part.

13. The instant petition stands allowed. The Trial Court is directed to release the seized amount of Rs.7,35,000/- lying in the Treasury/Government Fund to the petitioner subject to the condition that he would submit the details of the source of receipt of the aforesaid amount. The Income Tax Department would also verify the same and in case, explanation of the petitioner is not found to be satisfactory, then appropriate action shall be taken by





them at their end in accordance with law, after providing opportunity of hearing to the petitioner.

14. Let a copy of this order be sent to the concerned Income Tax Officer, Department of Income Tax, Kota for his intimation and necessary action.

15. All pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

Aayush Sharma/68

