



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2020

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 7698 of 2020

D.Arikrishna Perumal

... Petitioner

Vs.

1.The Assistant Superintendent of Police,
Prohibition and Excise Department,
Nagercoil, Kanyakumari District.

2.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
(Crime No.214 of 2020)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to release the petitioner's vehicle namely Royal Enfield Bullet two wheeler bearing Registration No.TN-74-AD7300.

For Petitioner : Mr.I.Pinaygash

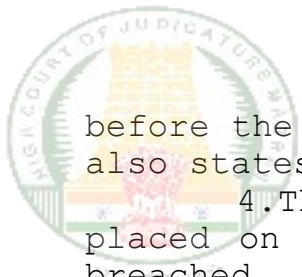
For Respondents : Mr.M.Rajarajan,
Government Advocate.

O R D E R

Heard the learned counsel on either side. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner is the owner of the petition mentioned vehicle. It is a two wheeler. It was seized for the offence under the Tamil Nadu Prohibition Act. The learned Government Advocate for the respondents states that till date no confiscation order under Section 14(4) of Tamil Nadu Prohibition Act has been passed. The vehicle has also not been produced before the jurisdictional criminal Court. I am of the view that so long as the vehicle has not been produced before the Jurisdictional Court, the Writ Court will always have the power to direct for the release of the vehicle.

3.The petitioner's counsel gives an undertaking that the petitioner will see to it that the vehicle is not involved in any other offences of similar nature. The vehicle will be produced



before the authority or the Court concerned as and when required. He also states that the vehicle will not be alienated.

4. The submission of the learned counsel for the petitioner is placed on record. If the undertaking given before this Court is breached, the benefit of this order will stand recalled and the vehicle in question will be taken back to custody and it will be released only after getting orders from this Court on such terms as this Court may deem it fit to impose.

5. I am of the view that keeping the petition mentioned vehicle in the custody of the respondents is not going to serve any purpose. The Hon'ble Supreme Court in the decision reported in **(2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat)** has held as follows:-

"17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

6. Therefore, the respondents are directed to release the vehicle in question forthwith subject to the following conditions:-

- a) *The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle.*
- b) *As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.*

7. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future. The Writ Petition is allowed accordingly. There shall be no order as to costs.

Sd/-

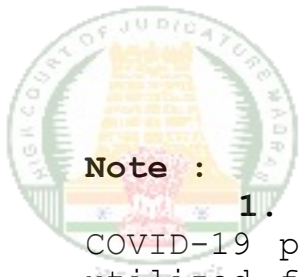
Assistant Registrar ()

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/ /2020

Sub Assistant Registrar (CS)

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**Note :**

1. In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Assistant Superintendent of Police,
Prohibition and Excise Department,
Nagercoil, Kanyakumari District.
- 2.The Inspector of Police,
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