



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.18376 of 2020

(Through Video Conference)

K.Kallathian

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Prohibition Enforcement Wing- Thanjavur,
Thanjavur District.

2.The Inspector of Police,
Prohibition Enforcement Wing- Thanjavur,
Thanjavur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to release the petitioner's Scorpio car bearing registration No. TN 72 AQ 8999, pertaining to the case in Cr.No.14 of 2019 on the file of the second respondent herein and return the vehicle to the petitioner based on his representation dated 07.12.2020.

For Petitioner	: Mr.S.Sivasubramanian
For Respondents	: Mr.A.Muthu Karuppan, Additional Government Pleader

O R D E R

This writ petition has been filed for a Mandamus to direct the respondents to release the petitioner's Scorpio car bearing registration No. TN 72 AQ 8999, pertaining to the case in Cr.No.14 of 2019 on the file of the second respondent herein and return the vehicle to the petitioner based on his representation dated 07.12.2020.

2. Heard Mr.S.Sivasubramanian, learned counsel appearing for the petitioner and Mr.A.Muthu Karuppan, learned Additional Government Pleader appearing for the respondents.

3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

4. It is the case of the petitioner that he is the owner of the Scorpio car bearing registration No. TN 72 AQ 8999. According to him, on 08.01.2019, the driver of the petitioner borrowed the vehicle of the petitioner for his personal work, following which, on the same day, the second respondent had seized the petitioner's vehicle on the allegation that the Scorpio car bearing registration No. TN 72 AQ 8999 was involved in illegal

<https://hdserverspoos.com/1130m> of illicit arrack in three 35 lite cans containing



105 lts in total and one 35 lts can containing 20 ltrs and thereafter, the second respondent registered a case in Crime No.14 of 2019 under Section 4(1)(aaa), 4(1-A) Tamil nadu Prohibition Act, 1937.

5. It is the contention of the petitioner that he is never involved in any illegal transportation of liquor bottles as alleged by the Police and he has not committed any prior criminal offence. According to the petitioner, the seized vehicle is now being kept in the open place and due to exposure of sun and rain and the vagaries of nature, the vehicle will lose its value and may, ultimately become a wreck and worthless. In such circumstances, this Writ Petition has been filed seeking for release of the said vehicle.

6. The petitioner has also given a representation on 07.12.2020 to the respondents seeking for release of the said seized vehicle. According to the petitioner, the said representation has not been considered by the respondents till date. As rightly contended by the petitioner, if the vehicle, which was seized by the second respondent, is kept in the open place, it will not be useful to anyone in the near future and if it is continued to remain in the open, it has to face the vagaries of nature and ultimately will become a wreck and worthless. However, whether the petitioner has committed the alleged offence or not can be adjudicated only after trial before the Criminal Court. Till such time, the vehicle cannot be kept idle. Therefore, this Court is inclined to grant an order as sought for by the petitioner in this Writ Petition, subject to the fulfillment of the following conditions by the petitioner.

(i) the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** in favour of the second respondent within a period of two weeks from the date of receipt of a copy of this order;

(ii) the petitioner shall give an unconditional undertaking to the second respondent that he shall not alienate or encumber the vehicle in question without permission of the Jurisdictional Magistrate till the completion of the confiscation proceedings;

(iii) the petitioner shall not change the colour and scheme of the vehicle;

(iv) the petitioner shall not use the vehicle for any illegal activities;

(v) before releasing the vehicle, the police authority shall take photographs of the vehicle at the cost of the petitioner;

(vi) The petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicle to the second respondent; and



(vii) 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. Upon completion of the above mentioned formalities, the second respondent shall release the vehicle viz., Scorpio car bearing registration No. TN 72 AQ 8999 to the petitioner forthwith without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future. As far as confiscation proceedings initiated against the seized vehicle is concerned, the same can go on without any interference.

8. The Writ Petition is disposed of accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SS

Note : 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 Deputy Superintendent of Police,
Prohibition Enforcement Wing- Thanjavur,
Thanjavur District.

2.The Inspector of Police,
Prohibition Enforcement Wing- Thanjavur,
Thanjavur District.

+1 CC to SGP (SR-25542[F] dated 15/12/2020)

Order made in

W.P. (MD)No.18376 of 2020

Dated:

14.12.2020

KM (31.12.2020) 3P 4C