

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.110 of 2021

G.Manivannan

... Petitioner

..vs..

State Rep.by

The Inspector of Police,
Periyapalayam Police Station,
Tiruvallur District,
Crime No.956 of 2020.

... Respondent

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order passed in Cr.M.P.No.281 of 2020 dated 19.10.2020 on the file of the District Munsif cum Judicial Magistrate, Uthukottai, Tiruvallur District and direct the respondent to release the petitioner's motor cycle 'Honda CB Unicorn' bearing Registration No. TN 20 CJ 6563 which was seized in connection with Crime No.956 of 2020 on the file of the respondent police to the petitioner.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Mr.K.Madhan

Government Advocate (Crl.Side)

O R D E R

Mr.K.Madhan, learned Government Advocate (Crl.Side) takes notice for the respondent. By consent of both parties, the matter is taken up today, for final disposal.

2.The respondent police registered a case in Crime No.956 of 2020 against the petitioner for the offence under Section 294 (b), 353, 506(i) IPC r/w Section 4(1)(a) of Tamil Nadu Prohibition Act and seized the Honda CB Unicorn bearing Registration TN 20 CJ 6563 and also initiated confiscation proceedings. Subsequently, the petitioner filed a petition before the Court below under Section 451 r/w 457 of Cr.P.C. for return of the vehicle, which was dismissed by the Court below, against which the petitioner is before this Court with the present Criminal Revision Case.

3.The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and he is in no way connected with the alleged offence. Therefore, he seeks interim custody of the said vehicle and that he would abide by stringent conditions, if any, to be imposed on him.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that since the petitioner was alleged to have used the said vehicle for illegal transportation of 34 bottles of Whiskey and Brandy, a case was registered against him under Tamil Nadu Prohibition Act. He would further submit that the investigation is pending and confiscation proceedings have been initiated and hence, the vehicle in question cannot be released at this stage.

5.Heard the learned counsel appearing on either side and perused the materials available on record.

6.Admittedly, the vehicle in question was involved in illegal transportation of liquor bottles and confiscation proceedings initiated by the respondent police is also pending. However, the petitioner has not shown as accused in this case and the said vehicle alone alleged to have involved in the said offence.

7. In view of the aforesaid reasons, this Criminal Revision Case is allowed and the impugned order dated 19.10.2020 made in Crl.M.P.No.281 of 2020 by the learned District Munsif-cum-Judicial Magistrate, Uthukottai, Tiruvallur District is set aside and that the vehicle-in-question, bearing Registration TN 20 CJ 6563 is ordered to be released to the petitioner, subject to the following conditions:

(i)The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;

(ii)The petitioner shall not alter or alienate the vehicle in any manner till confiscation proceedings is over;

(iii)The petitioner is directed to furnish security for a sum of Rs.50,000/- (Rupees Fifty Thousand only), before the learned District Munsif-cum-Judicial Magistrate, Uthukottai, Tiruvallur District, on such furnishing security, the vehicle shall be returned.

(iv)The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the

respondent and by the Court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

(v) The petitioner shall participate in the confiscation proceedings and shall produce the vehicle before the confiscation authority. This order is subjected to the confiscation proceedings.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ms

To

1. The District Munsif-cum-Judicial Magistrate,
Uthukottai, Tiruvallur District.
2. The District Collector
Thiruvallur District,
Thiruvallur.
3. The Inspector of Police,
Periyapalayam Police Station,
Tiruvallur District.
4. The Public Prosecutor,
High Court, Madras.

GMI (CO)
RMP (23/03/2021)

Cr1.R.C.No.110 of 2021

WEB COPY