

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.6054 of 2021

P.Francis

... Petitioner

Vs

1.The District Revenue Officer,
O/o.The District Collector,
Coimbatore District.

2.The Inspector of Police,
CSCID,
Pollachi,
Coimbatore 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 TVS NTOHQ 125 DISC BSIV bearing registration No.KL-09-AQ-6047 seized by the second respondent on 04.02.2021 by consider the petitioner's representation dated 25.02.2021.

For Petitioner : Mr.S.Tamil Murugan
for Mr.M.Vinoth

For Respondents : Mr.V.Shanmuga Sundar
Special Government Pleader

ORDER

This writ petition has been filed to direct the first respondent to release the petitioner's vehicle, namely, TVS NTOHQ 125 DISC BSIV bearing registration No.KL-09-AQ-6047 seized by the second respondent on 04.02.2021 to the petitioner.

2.Mr.V.Shanmuga Sundar, learned Special Government Pleader accepts notice on behalf of the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3. Heard Mr.S.Tamil Murugan, learned counsel representing Mr.M.Vinoth, learned counsel for the petitioner and Mr.V.Shanmuga Sundar, learned Special Government Pleader appearing for the respondents.

4. It is the case of the petitioner that he is the owner of the aforementioned vehicle. According to the petitioner, the second respondent seized his vehicle on 04.02.2021 alleging that the vehicle was used to transport 3 Bags of PDS Rice (Each contains 40 Kgs) and a case was registered in Crime No.28 of 2021 for the alleged offence under Section 6(4) of Tamil Nadu Scheduled Commodities (RDCS) Order, 1982 and section 7(1)(a)(ii) of Essential Commodities Act, 1955. After seizure of the vehicle, the second respondent handed over the same to the first respondent.

5. It is the contention of the petitioner that she is never involved in any illegal transportation of PDS Rice 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 to the respondents on 25.02.2021 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 place, 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) Since it is the case involving seizure of PDS Rice, the petitioner cannot give security by way of bond, instead will have to give cash security. Accordingly, the petitioner shall deposit a sum of Rs.5,000/- (Rupees Five thousand only) with the first 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 first respondent that she 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 first respondent.

(vii)As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and she shall cooperate with the enquiry to be conducted by the respondents."

7. Upon completion of the above mentioned formalities, the respondents shall release the vehicle viz., TVS NITORQ 125 DISC BSIV bearing registration No.KL-09-AQ-6047 to the petitioner forthwith and 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. However, if there is any confiscation proceedings initiated against the seized vehicle, 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

/True Copy/

Sub Assistant Registrar

To

1.The District Revenue Officer,
O/o.The District Collector,
Coimbatore District.

2.The Inspector of Police,
CSCID, Pollachi,
Coimbatore District.

+1cc to Mr.M.Vinoth, Advocate SR.NO..15078

AKM/15.03.21/3P- 4c/

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