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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Criminal Revision Case No.448 OF 2021
and
Crl.M.P.No.7287 of 2021

Hariharan

...Petitioner/Petitioner-Accused

..vs..

The Inspector of Police
Prohibition Enforcement Wing (South)
Adyar
Chennai-600020

...Respondent/Respondent/Complainant

Criminal Revision Case filed under Section 397 & 401 of Criminal Procedure Code, to set aside the order dated 01.04.2021 in Crl.M.P.No.426 of 2021 on the file of Judicial Magistrate-I, Alandur, in Crime No.112 of 2020 on the file of the respondent police.

For Petitioner : Mr.A.Athimoolam

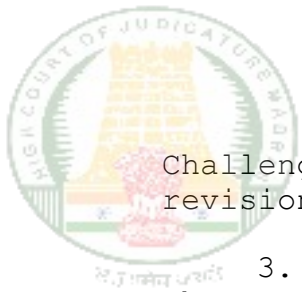
For Respondent-1: Mr.S.Sugendran
Government Advocate (Crl.Side)

O R D E R

(The case has been heard through video conference)

This Criminal Revision Case has been filed against the order dated 01.04.2021 in Crl.M.P.No.426 of 2021 on the file of Judicial Magistrate-I, Alandur, in Crime No.112 of 2020 on the file of the respondent police.

2.The respondent police registered the case in Crime No.112 of 2020 against the petitioner for the offence under Section 4 (1)(a) of Tamilnadu Prohibition Act and also seized the vehicle "Pulsar" bearing Registration No.79 E 4732. During the pendency of the investigation, the petitioner filed an application before the learned Judicial Magistrate-I, Alandur, in Crl.M.P.No.426 of 2021 under Sections 451 of Cr.P.C seeking relief of interim custody of the vehicle and the learned Magistrate dismissed the same by order dated 01.04.2021.



Challenging the said order, the petitioner has filed the present revision before this Court.

3. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle. He would submit that the vehicle is kept in open space and in the exposure of sun and rain and thereby, it would get severely damaged. The petitioner had filed a petition before the learned Judicial Magistrate-I, Alandur, seeking interim custody of the vehicle whereas, the learned Magistrate, without considering the fact, dismissed the petition. Therefore, the petitioner has filed the present revision before this Court.

4. The learned Government Advocate (Crl. Side) would submit that the said vehicle is involved in illegal transportation of liquor. He would submit that the investigation is pending and if the vehicle is released at this stage, there is every possibility of tampering the engine and chassis number of the vehicle and thereby, the investigation would be defeated. Hence, he objects for release of the vehicle.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police and perused the materials on record.

6. Admittedly, the respondent/police registered the case in Crime No.112 of 2020 against the petitioner for the offence under Section 4(1)(a) of Tamilnadu Prohibition Act and seized the vehicle "Pulsar" bearing Registration No.79 E 4732 and now the investigation is pending.

7. However, considering the facts and circumstances of the case and that the vehicle is kept in the open space and exposed to heat, rain and dust, this Court directs the learned Judicial Magistrate-I, Alandur, to return the vehicle "Pulsar" bearing Registration No.79 E 4732, to the petitioner, on 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;



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(iii)The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), as non-refundable deposit through RTGS/NEFT in favour of the Joint Secretary & Treasurer, Chief Minister's Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009, Tamil Nadu, India, e-mail: jscmprf@tn.gov.in or by Electronic Clearing System (ECS) to Indian Overseas Bank, Secretariat Branch, Chennai 600 009, S.B.Account No.11720 10000 00070, IFS Code IOBA0001172, CMPRF PAN: AAAGC0038F and on such payment and production of proof, 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 or the Court below 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, if any initiated, and shall produce the vehicle, before the confiscation authority. This order is subjected to the confiscation proceedings.

8. Accordingly, this Criminal Revision case is allowed by setting aside the order dated 01.04.2021 passed in CrI.M.P.No.426 of 2021 by the learned Judicial Magistrate-I, Alandur. Consecutively, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ksa-2

To

- 1.The learned Judicial Magistrate-I,
Alandur.
- 2.The Inspector of Police
Prohibition Enforcement Wing (South)
Adyar, Chennai-600020



3.The Public Prosecutor,
High Court, Madras.

Copy To

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The Joint Secretary & Treasurer,
Chief Minister's Public Relief Fund,
Finance (CMPRF) Department,
Government of Tamilnadu
Secretariat
Chennai - 600 009.

+1cc to Mr.A.Athimoolam, Advocate, S.R.No.37884

Cr1.R.C.No.448 of 2021

AJS (CO)
RGA(12/08/2021)