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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.422 of 2021

T.Balan

Represented through his Power of Attorney
Kulanthaivel

... Petitioner

..vs..

State Rep.by,
The Inspector of Police,
Elachipalayam Police Station,
Namakkal District,
Crime No.237 of 2021.

... Respondent

Criminal Revision Case filed under Section 397 and 401 Cr.P.C to set aside the order dated 18.06.2021 passed in CrI.M.P.No.815 of 2021 by the learned Judicial Magistrate, Tiruchengode, Namakkal District and direct the respondent to release the four wheeler 'Mahindra Bolero Invader' bearing registration No.PY 01 AF 0717 which was seized in connection with Crime No.237 of 2021 on the file of the respondent police.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Mr.S.Sugendran
Government Advocate (CrI.Side)

O R D E R

This Criminal Revision Case has been filed against the order dated 18.06.2021 passed in CrI.M.P.No.815 of 2021 by the learned Judicial Magistrate, Tiruchengode, Namakkal District.

2.The respondent police registered a case in Crime No.237 of 2021 against the petitioner for the offence under Section 4(1) (aa) of Tamil Nadu Prohibition Act and seized the 'Mahindra Bolero Invader' bearing registration No.PY 01 AF 0717. During the pendency of the investigation, the petitioner filed a petition in CrI.M.P.No.815 of 2021 under Sections 457 Cr.P.C seeking interim custody 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/1st accused filed this case on behalf of T.Balan, who is the owner of the said vehicle, which was seized by the respondent police on 08.05.2021 for illegal transportation of 480 bottles of 180 ml Brandi Bottles. Since from the date of seizure, the vehicle is in the custody of the respondent police, it is left idle in the open space thereby, the condition of the vehicle is getting deteriorated and the value of the vehicle is lost thereby, putting the petitioner to hardship and hence, he seeks for return of the vehicle.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the alleged vehicle involved in offence punishable under Section 4(1)(aa) of Tamil Nadu Prohibition Act and the investigation is still pending and charge sheet is yet to be filed. During the investigation, if the vehicle is released, there is a possibility of tampering of engine and chassis number of the vehicle and hence, he objects for release of the vehicle.

5.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and also perused the materials available on record.

6. Admittedly, the respondent/police registered the case in Crime No.237 of 2021 against the petitioner for the offence under Section 4(1)(aa) of Tamil Nadu Prohibition Act and also seized the vehicle bearing Reg.No.PY 01 AF 0717. During the pendency of the investigation, the petitioner filed a petition in Crl.M.P.No.815 of 2021 before the learned Judicial Magistrate, Tiruchengode and the same was dismissed on 18.06.2021. It is seen that in the present case, investigation is pending and charge sheet not yet filed. If at all, after investigation found that the vehicle is involved in the commission of offence, it is liable to be confiscated. The release of the vehicle during investigation is purely the discretionary power of the Court. The learned Judicial Magistrate by exercising the discretionary jurisdiction has dismissed the petition filed by the petitioner. This Court, while exercising the revisional jurisdiction cannot conduct roving enquiry at this stage.

7.Under these circumstances, this Court does not find any perversity or infirmity in the order passed by the Court below. Accordingly, this Criminal Revision case is dismissed.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Tiruchengode,
Namakkal District.

2.The Inspector of Police,
Elachipalayam Police Station,
Namakkal District.

3.The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.422 of 2021

UM(CO)
B.VC(09.08.2021)