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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.452 OF 2021

M.Muniyappan

... Petitioner / Petitioner

..VS..

The Inspector of Police
Barur Police Station
Krishnagiri District
Crime No.86 of 2021

... Respondent / Respondent

Criminal Revision Case filed to call for the records and to set aside the order of Crl.M.P.No.1386 of 2021 order dated 22.07.2021 on the file of the Hon'ble DMC cum JM at Pochampalli (FAC) and to return the Vehicle "Bajaj Pulsar 150 DTS-I (ABS), Colour - EBONY BLK' RED DKL, Engine Number: DHYCKJ99789, and chassis No.MD2A11CY0KCJ76776 to the petitioner.

For Petitioner	: Mr.Poomalai.K for Mr.L.Munisamy
For Respondent	: 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 22.07.2021 passed in Crl.M.P.No.1386 of 2021 by the District Munsif cum Judicial Magistrate, Pochampalli (FAC).

2.The respondent police registered the case in Crime No.86 of 2021 against the petitioner and another accused for the offence under Section 4(1)(aa) of TNP Act for illegally transporting liquor and also seized the vehicle "Bajaj Pulsar" bearing registration No.TN29 CZ 2865 and it is in the custody of the police. During the pendency of the investigation, the petitioner filed a petition before the District Munsif cum Judicial Magistrate, Pochampalli (FAC) in Crl.M.P.No.1386 of 2021 under Sections 451 and 457 of Cr.P.C seeking interim custody of the vehicle, and the learned Magistrate dismissed the same by order dated 22.07.2021. 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 has not involved in any other case and a false case has been foisted against the petitioner and he is the bread winner of his family and that the vehicle was used for transporting agriculture products. He would submit that the vehicle is in exposure of sun light in a open space and thereby, he filed a petition before the District Munsif cum Judicial Magistrate, Pochampalli (FAC) seeking for return the vehicle and the learned Magistrate without considering the fact, simply dismissed the petition. Therefore, the petitioner has filed the present revision before this Court seeking interim custody of the said vehicle by setting aside the order of the Court below and he would submit that the petitioner is prepared to abide by any stringent conditions, if any, to be imposed on him.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner had illegally transported 300 Pocket of Double Kick fine Whiskey from Bangalore during lock down period and thereby, the case was registered against the petitioner and another accused for the offence punishable under Section 4(1) (aa) of TNP Act. He would submit that the investigation is pending and if the vehicle is released at this stage, there is a possibility of tampering of engine and chassis number of the vehicle which would affect the trial and 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.86 of 2021 against the petitioner for the offence punishable under Section 4(1)(aa) of TNP Act and seized the vehicle bearing registration No.TN29 CZ 2865 and the investigation is still pending. Since, the Government itself is doing Alcohol business, if the accused are allowed to do this, according to prosecution it would cause loss to the Government. However, considering the facts and circumstances and that the vehicle is kept in the open space and exposed to heat, rain and dust, this Court is inclined to grant interim custody of the vehicle to the petitioner.

7. Accordingly, this Court directs the District Munsif cum Judicial Magistrate, Pochampalli (FAC) to return the vehicle "Bajaj Pulsar" bearing Registration No.TN29 CZ 2865, 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;

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

(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 22.07.2021 passed in CrI.M.P.No.1386 of 2021 by the District Munsif cum Judicial Magistrate, Pochampalli (FAC).

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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To

1. The District Munsif cum Judicial Magistrate,
Pochampalli (FAC)

2. The Inspector of Police
Barur Police Station
Krishnagiri District

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.L.Munisamy, Advocate, S.R.No.38107

Cr1.R.C.No.452 of 2021

MG(CO)
CS/13/08/2021