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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.515 of 2021

Sathish kumar ... Petitioner

Versus

The Inspector of Police,
E-2 Police Station,
Peelamadu,
Coimbatore.

... Respondent

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order in C.M.P.No.14260 of 2021 dated 13.07.2021 on the file of the Judicial Magistrate No.II, Coimbatore and please to return of vehicle Mahindra Goods Carrier TN 39 CH 4476.

For Petitioner : Mr.C.Deepak Kumar

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

O R D E R

This Criminal Revision Case has been filed against the order dated 13.07.2021 passed in C.M.P.No.14260 of 2021 by the learned Judicial Magistrate No.II, Coimbatore.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.424 of 2021 against the petitioner for the offence under Section 4(1) (a) of Tamil Nadu Prohibition Act and seized the vehicle viz., Bolero maxi truck goods carrier bearing Registration No.TN 39 CH 4476. The petitioner filed a petition under Section 451 r/w 457 Cr.P.C in

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C.M.P.No.14260 of 2021 seeking interim custody of the vehicle. The learned Judicial Magistrate No.II, Coimbatore, by an order dated 13.07.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.

3.The case of the prosecution is that on 04.06.2021, when the respondent/police suspected the vehicle Bolero maxi truck goods carrier bearing registration No.TN 39 CH 4476 standing at Covai - Avinasi road near panamal. On suspicion, they searched the vehicle and found 26 bottles of liquor. Hence, the respondent police registered the case in Crime No.424 of 2021 against the petitioner and seized the vehicle.

4.The learned Counsel appearing for the petitioner would submit that the petitioner is the owner of the vehicle and he used the vehicle for regular essential duty of the Fedex Courier Service from Bangalore to Coimbatore for monthly rental wages and also his family members depending on the income from the vehicle. Therefore, the petitioner seeks interim custody of the said vehicle and that he would abide by stringent conditions, if any, to be imposed on him.

5.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner was alleged to have used the said vehicle for illegal transportation of liquor bottles. He would further submit that in the present case show cause notice issued and confiscation proceedings initiated and hence, the vehicle in question cannot be released at this stage.

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

7.On a perusal of the records, it is seen that the respondent police registered the case in Crime No.424 of 2021 against the petitioner for the offence under Sections 4(1) (a) of Tamil Nadu Prohibition Act and also seized the vehicle. Pending investigation, the petitioner filed a petition for interim custody of the vehicle, however, the same was dismissed by the Court below.

8.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 and also considering the fact that the Government itself is doing business of selling alcohol through TASMAC Shops, it is very easy for the public to access the subject matter liquor, this Court directs the learned Judicial Magistrate, No.II, Coimbatore, to return the vehicle bearing Registration No.TN-39-CH-4476 to the petitioner, on the following conditions:-

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(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 deposit a sum of Rs.1,00,000/- (Rupees One lakh 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.

9.With the above directions, the Criminal Revision Case is allowed by setting aside the order dated 13.07.2021 passed in C.M.P.No.14260 of 2021 by the learned Judicial Magistrate, No.II, Coimbatore.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

ms/pbl

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To

1. The Judicial Magistrate No.2,
   Coimbatore.

2. The Inspector of Police,
   E- 2 Police Station,
   Peelamedu,
   Coimbatore.

3. The Public Prosecutor,
   High Court, Madras.

+1cc to Mr.C.Deepak Kumar, Advocate, S.R.No.43531

Crl.R.C.No.515 of 2021

JPL(CO)
SU(20/09/2021)

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