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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.R.C.NO.832 OF 2021

P.Manoj Prabhakaran

... Petitioner/Petitioner

Vs.

State Rep. by
The Inspector of Police,
Vennandhur Police Station,
Namakkal District.
(Crime No.629/2021)

... Respondent/Respondent

PRAYER: The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order passed in Crl.M.P. No.1161 of 2021 dated 14.08.2021 on the file of Judicial Magistrate, Rasipuram, Namakkal District and to allow this revision.

For Petitioner : Mr.C.Prabakaran

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

O R D E R

This Criminal Revision Petition has been filed against the dismissal of the petition in Crl.M.P. No.1161 of 2021 dated 14.08.2021 on the file of Judicial Magistrate, Rasipuram, Namakkal District.

2. Learned counsel for the petitioner would submit that the petitioner is the owner of the Two wheeler Hero Honda Splendor Motorcycle bearing Registration No.TN-90-F-1164. He is working in a private company and that during the covid period, his father had taken the vehicle and later, he came to know that the vehicle was seized in connection with the case in Crime No.629 of 2021 registered by the respondent on 27.06.2021 for the offences punishable under Sections 4(1)(a), 4(1-A) of TNP Act



and the petitioner's father was arrested in this case for having transported four litres of I.D. arrack. Learned counsel for the petitioner would submit that the petitioner's father had taken the vehicle without knowledge of the petitioner and the petitioner was called for enquiry and during the enquiry, the respondent found that the petitioner is not involved in this case and he is not an accused. He would further submit that the petitioner is facing difficulty, without his vehicle and unable to use it for day to day work.

3. Learned counsel for the petitioner would further submit that the vehicle, which has been seized by the respondent in this case, has been parked in the open exposed to vagaries of weather and thereby the value of the vehicle is deteriorating day by day. He would submit that the petitioner had filed a petition seeking for return of property in CrI.M.P. No.1161 of 2021 dated 14.08.2021 on the file of Judicial Magistrate, Rasipuram, Namakkal District seeking for return of property. The Learned Judge had dismissed the petition stating that the confiscation proceedings are pending.

4. Learned counsel for the petitioner would also submit that the petitioner would appear before the Authority and that he had replied to the show cause notice. Learned Counsel for the petitioner would further reiterate that the petitioner is not an accused in this case and the vehicle had been used by the accused without the knowledge of the petitioner and thereby, filed this revision seeking to set aside the order passed by Judicial Magistrate, Rasipuram, Namakkal District and for interim custody of the vehicle.

5. Mr.S.Sugendran, Learned Government Advocate(CrI.Side) appearing for the respondent would submit that the vehicle of the petitioner has been seized on 27.06.2021 in connection with Crime No.629 of 2021 for transport of four litres of I.D. Arrack. He would further submit that the petitioner has been issued with show cause notice and that the proceeding is pending.

6. Taking into consideration the fact that the petitioner is not an accused, this Court is of the opinion that the interim custody of the vehicle may be handed over to the petitioner.

7. In view of the above, the order dated 14.08.2021 passed in CrI.M.P. No.1161 of 2021 stands set aside and the Criminal Revision Petition stands allowed and the interim custody of the vehicle is directed to be handed over to the petitioner subject to the following conditions:



a) The petitioner shall execute a bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Rasipuram, Namakkal District.

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b) The petitioner shall produce the Original RC book of the vehicle in question before the concerned Trial Court and file an affidavit of undertaking that he will not dispose or alter physical features of the vehicle and that he will produce the vehicle before the trial Court as and when required by the trial Court or the Investigating Agency.

c) The RC book of the vehicle shall be retained by the trial Court till the disposal of the trial or until further orders.

It is made clear that this order will not prevent the respondent from proceeding with the confiscation proceedings against the petitioner in accordance with law.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

vri/gbi

To

1. The Judicial Magistrate,
Rasipuram,
Namakkal District.
2. The Sub Inspector of Police,
Vennandhur Police Station,
Namakkal District.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.61582

Cr1.R.C.No.832 of 2021

AK-II(CO)
RLP(08/12/2021)