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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.NO.22758 OF 2021

R.Natesan

...Petitioner

Vs.

1. The Deputy Superintendent of Police
Prohibition Enforcement Wing,
Hosur, Krishnagiri District.
2. The Inspector of Police
Prohibition Enforcement Wing Police Station ,
Hosur, Krishnagiri District.
Crime No.685 of 2021

...Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, to issue writ of mandamus directing the respondents to release the petitioner's vehicle namely, Ashok Leyland Taurus Lorry bearing Regn.No.TN52P8370 which was seized by second respondent in Crime No.685 of 2021 immediately.

For Petitioner : Mr.C.Munusamy

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

The petitioner, who is the owner of Ashok Leyland Taurus Lorry bearing Registration No.TN52P8370, has filed this petition seeking direction directing the respondents to release the petitioner's vehicle.

2.The 2nd respondent seized the vehicle in Crime No.685 of 2021 finding that on 23.09.2021, the petitioner's vehicle was involved in offences under Sections 4 (1) (aa) r/w 4(1-A) of the Tamil Nadu Prohibition Act. The complaint is that during the routine vehicle check up, the 2nd respondent found liquor bottles in the capacity of 180ml of Punch Whisky 150 bottles and 180ml



of Silver cup brandy, 390 Plastic bottles in the cabin of the Lorry. The Driver of the Lorry and the Co-driver were arrested on the same day. From the Lorry, liquor bottles were seized. Finding that the vehicle was involved in prohibition offence, the vehicle was seized later and produced in the police station.

3.The contention of the petitioner is that the seized vehicle of the petitioner is now kept in open, in the police station exposing to vagaries of weather, and the vehicle is kept idle. The value of the vehicle is diminished and continuing to keep the vehicle in open would make the vehicle unusable. The respondent police not followed the instructions contemplated in G.O.Ms.No.39, (Home), Prohibition and Excise (VII) Department, dated 22.10.2019. The respondents failed to follow Section 14 (4) of the Tamil Nadu Prohibition Act.

4.In view of the same, the questioning of detaining the vehicle and auctioning the same without any confiscation does not arise. The vehicle has also not been produced before the lower Court as a case property. The petitioner, further relied upon the judgment of this Court in W.P.No.21428 of 2021 (Arjunan Vs. The Deputy Superintendent of Police, Prohibition Enforcement Wing, Hosur, Krishnagiri District and others) dated 06.10.2021, wherein, in similar circumstances, this Court had passed an order granting interim custody of the vehicle.

5.The learned Additional Public Prosecutor submits that in this case, the vehicle, though was seized by the respondent police on 23.09.2021, the vehicle is yet to be produced before the lower court as a case property in Crime No.685 of 2021, but the seized liquor bottles were produced. The vehicle was not produced, since they are contemplating to initiate confiscation proceedings.

6. Counsel for the petitioner submits that he is not aware about the confiscation proceedings, no notice served to him, finding that the vehicle seized in the month of September 2021 and so far, the vehicle neither produced before the lower court, nor confiscation proceedings initiated. It is made clear that it is open to the respondents to initiate and conclude the confiscation proceedings interim custody of the vehicle alone granted this court in an identical situation had directed release the seized vehicle and handed over to the petitioner. The respondents to release the said vehicle subject to the following conditions:-

"a.The petitioner is directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) in favour of the Legal Service Authority, Krishnagiri.It will be a non-



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refundable payment. The Legal Service Authority is directed to spend the amount for appropriate welfare activities.

b.The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.

c.The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle.

d.As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.

7.Upon completion of these formalities, the respondents shall release the vehicle forthwith without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future. Accordingly, the writ petition is allowed.
No costs.

8.It is made clear that it is only the interim measurement subject to the outcome of the confiscation proceedings.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Superintendent of Police
Prohibition Enforcement Wing,
Hosur, Krishnagiri District.
2. The Inspector of Police
Prohibition Enforcement Wing Police Station ,
Hosur, Krishnagiri District.
Crime No.685 of 2021.
3. The Public Prosecutor,
High Court, Madras.

Copy to

The Legal Service Authority, Krishnagiri.

W.P.No.22758 of 2021

VBM(CO)

RLP(15/12/2021)