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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2021

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THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.RC.No.742 of 2021

Murugan

... Petitioner

Vs.

The State rep by,
The Inspector of Police,
Alangiyam Police Station,
Thiruppur District. (Cr.No.429 of 2021)

.... Respondents

PRAYER: Criminal Revision is filed under Sections 397 & 401 of Criminal Procedure Code to set aside the order passed in Cr1.MP.No.712 of 2021 dated 29.07.2021 on the file of the Judicial Magistrate, Dharapuram and further direct the respondent to return the petitioners vehicle "Maruti Omni Car" Silver colour bearing registration No.TN37 CW 2057 seized in crime No.429 of 2021 on the file of the respondent police.

For Petitioner : Mr.S.Silambu Selvan

For Respondent : Mr.S.Sugendran, GA (Cr1.side)

ORDER

(The case has been heard through video conference)

This revision has been filed against the dismissal of the petition seeking interim custody of the vehicle involved in the prohibition offence.

2. The brief facts of the case :-

The respondent has registered a case in Cr.No.429 of 2021



for the offence under Section 4(1)(a) of the Tamil Nadu Prohibition Act and had seized the vehicle Maruti Omni bearing Registration No.TN37 CW 2057 for having transported 17quarter bottles of Indian made Foreign Liquor. The driver of the vehicle one Deepakaran was arrested and he had been later enlarged on bail. The petitioner who is the owner of the vehicle had filed CrI.MP.No.712 of 2021 under Sections 451 and 457 Cr.PC seeking for interim custody of the vehicle. The learned Magistrate finding that the show cause notice had been issued by the confiscating authority had dismissed the application for interim custody of the vehicle, against which the present revision has been filed.

3. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and he is not an accused in this case. The petitioner had lent the vehicle to his friend one Deepakaran during the Corona pandemic period for taking his relatives to the hospital for treatment, whereas, the said person has misused the vehicle, and thereby, the petitioner vehicle has been seized by the respondent. He would submit that the petitioner appeared for enquiry and the respondent finding that the petitioner has nothing to do with the offence had not implicated the petitioner in the crime. The petitioner is put to severe hardship and loss due to the detention of the vehicle. He would submit that the petitioner is prepared to contest the confiscation proceedings by giving a reply. He would submit that the vehicle is now kept in the open exposed to the vagaries of weather and thereby the value of the vehicle is getting deteriorated day by day. He would submit that the petitioner is prepared to abide by any stringent condition that may be imposed on him and that he is prepared to produce the vehicle as and when required by the respondent/police or confiscating authority.

4. The learned Government Advocate (CrI. side) appearing for the respondent would submit that the Maruti Omni was seized by the respondent in connection with the Cr.No.429 of 2021 for having transported 17quarter bottles of Indian made Foreign Liquor. He would submit that the petitioner is not an accused in this case. He would further submit that the respondent has initiated confiscation proceedings and the confiscating authority has also issued show cause notice to the respondent, however it has not been served on the petitioner.

5. Heard the counsel and perused the materials available on record.

6. The petitioner is the owner of the vehicle Maruti Omni bearing Registration No. TN37 CW 2057. The petitioner is not an accused in this case. The contraband alleged to have been



involved in this case is 17 quarter bottles of Indian made Foreign Liquor.

7. Taking into consideration the fact that though the confiscation proceedings have been initiated, show cause notice has not been served on the respondent. This Court is of the opinion that the interim custody of the vehicle may be handed over to the petitioner subject to imposition of conditions.

8. Accordingly, the Criminal Revision Petition is allowed and the impugned order, dismissing the petition for return of property in Crl.MP.No.712 of 2021, dated 29.07.2021, passed by the learned Judicial Magistrate, Dharapuram, is hereby set aside and that the interim custody of the vehicle in question, Maruti Omni bearing Registration No. TN37 CW 2057 shall be handed over to the petitioner, subject to the following conditions:

i) The petitioner shall execute a bond for a sum of Rs.50,000/- with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate, Dharapuram.

ii) The petitioner shall produce the Original RC Book of the vehicle in question before the Trial Court and file an affidavit of undertaking that he will not dispose or alter the 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.

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

The respondent is at liberty to proceed further with the confiscation proceedings and the order passed in this revision will not be a bar to the authorities in proceeding with the confiscation proceedings.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Dharapuram.
2. The Inspector of Police,
Alangiyam Police Station,
Thiruppur District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Silambu Selvan, Advocate, S.R.No.58775

Crl.RC.No.742 of 2021

PCH(CO)
SU(01/12/2021)
SU(03/01/2022)