



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.RC.NO.737 OF 2021

Elangovan

...Petitioner

Vs.

The State rep by,
The Inspector of Police,
Karuppur Police Station,
Salem city. (Cr.No.170 of 2021)

...Respondents

PRAYER : Criminal Revision is filed under Sections 397 & 401 of Criminal Procedure Code to set aside the order passed in Crl.MP.No.1242 of 2021 dated 07.10.2021 on the file of the Judicial Magistrate No.II, Salem and to return to the petitioner the Mahindra Bolero Pickup bearing registration No.KA02 AG 4163 seized in connection with Cr.No.170 of 2021 on 04.06.2021 on the file of the respondent.

For Petitioner : Mr.M.Rajkumar.

For Respondent : Mr.E.Raj Tilak, APP.

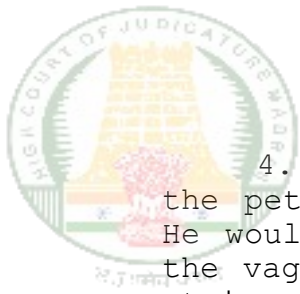
ORDER

(The case has been heard through video conference)

This revision has been filed against the dismissal of the petition seeking for return of vehicle.

2. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle Mahindra Bolero Pickup bearing registration No.KA02 AG 4163.

3. The vehicle was seized by the respondent in connection with Cr.No.170 of 2021 registered for the offence under Section 4(1)(aa) and 4(1-A) of Tamil Nadu Prohibition Act for having transported 406 quarter bottles containing illicit liquor. The petitioner was arrested and he was released on bail. The learned counsel for the petitioner would further submit that the petitioner had filed application for return of property and the learned Magistrate by an order dated 07.10.2021 dismissed the petition stating that confiscation proceedings are pending.



4. The learned counsel would further submit that till date the petitioner has not been served with any show cause notice. He would submit that the vehicle is parked in open exposure to the vagaries of weather, the petitioner undertakes to abide any stringent condition to be imposed for interim custody of the vehicle. He would also submit that he is ready to surrender the vehicle as and when directed by the Court.

5. The learned Additional Public Prosecutor would submit that the petitioner was arrested for illegally transporting 180ml x 480bottles of Indian made Foreign Liquor in his vehicle. The petitioner was arrested on the spot on 04.06.2021 and later he was released on bail. He would submit that though the confiscation proceedings have been initiated by the respondents, show cause notice has not been served on the petitioner till date. He would further submit that there is no previous case is pending as against the petitioner and the vehicle is not involved in any other offence.

6. 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 condition.

7. Accordingly, the Criminal Revision Petition is allowed and the impugned order, dismissing the petition for return of property in CrI.MP.No.1242 of 2021, dated 07.10.2021, passed by the learned Judicial Magistrate No.II, Salem, is hereby set aside and that the interim custody of the vehicle in question, Mahindra Bolero Pickup bearing registration No.KA02 AG 4163 shall be handed over to the petitioner, subject to the following conditions:

i) The petitioner shall execute a bond for a sum of Rs.2,00,000/- with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Salem.

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.

WEB COPY

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Salem.

2.The Inspector of Police,
Karuppur Police Station,
Salem city.

3.The Public Prosecutor,
High Court,
Madras.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.M.Rajkumar, Advocate, S.R.No.57800

Cr1.RC.No.737 of 2021

PMK(CO)
RVM(03/12/2021)