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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.883 of 2021

Balamurugan

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Prohibition Enforcement Wing,
Cheyyar,
Thiruvannamalai District.
(Crime No.469 of 2021)

... Respondent

PRAYER: The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order dated 08.11.2021 made in Crl.M.P.No.1089 of 2021 on the file of Judicial Magistrate, Cheyyar, Thiruvannamalai District, for return of property of the Vehicle viz., BOLERO CITY PICKUP bearing Registration No. TN 21 BK 1072, Engine No. TBK4H86304 Chassis No. MA1ZW2TBKK6H43579, concerned in Crime No.469 of 2021 on the file of the Inspector of Police, Prohibition Enforcement Wing, Cheyyar, Tiruvannamalai District to the custody of the petitioner.

For Petitioner : Mr. C.Pushparaj

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, seeking for return of property.

2. Learned counsel for the petitioner would submit that the petitioner is the owner of Bolero City Pickup bearing Registration No. TN 21 BK 1072, Engine No. TBK4H86304 Chassis No. MA1ZW2TBKK6H43579, Colour - M1 Dimind White. He would further submit that without the knowledge of the petitioner the vehicle was used by his brother-in-law and that the vehicle was



seized by the respondent in connection with a case registered in Crime No.469/2021 for the offence under Section 4(1)(aaa) r/w 4(1-A) of TNP Act and Section 6 and 7 of TN Rectified Sprit Rules 2000 Act. He would further submit that the petitioner is not an accused. He would further submit that the vehicle is kept in open space exposed to vagaries of weather and thereby, the value of the vehicle is diminishing day by day. He would further submit that the petitioner had filed Crl.M.P.No.1089 of 2021 before the Judicial Magistrate, Cheyyar, Thiruvannamalai District, and that the learned Judge had dismissed the petition stating that confiscation proceeding is pending. He would submit that the petitioner is prepared to give an undertaking that the vehicle will not be used for any illegal activities in future and it will be produced before the respondent or before the concerned court as and when required for the purpose of investigation and thereby he seeks to set aside the order passed by the trial court and interim custody of the vehicle to the petitioner.

3. Mr.S.Sugendran, Learned Government Advocate(Crl.Side) appearing for the respondent would submit that the vehicle was used by the petitioner's brother-in-law for transporting 35 litres of illicit arrack and the respondent has registered a case in Crime No. 469 of 2021 for the offences punishable under Section 4(1)(aaa) r/w 4(1-A) of TNP Act and Section 6 and 7 of TN Rectified Sprit Rules 2000 Act and seized the 35 litres of 6 white plastic canes. He would further submit that the confiscation proceeding is pending.

4. Taking into consideration of the facts and circumstances of the case that the petitioner is not an accused, this Court is of the opinion that the interim custody of the vehicle can be granted to the petitioner by imposing conditions.

5. In view of the above, the order dated dated 08.11.2021 made in Crl.M.P.No.1089 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:

(i)The petitioner shall produce the original RC Book of 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;



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(iii)The petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand 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.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vri/shk

To

1. The Judicial Magistrate,
Cheyyar,
Thiruvannamalai District
2. The Inspector of Police,
Prohibition Enforcement Wing,
Cheyyar,
Thiruvannamalai District.
(Crime No.469 of 2021)



3. The Public Prosecutor,
High Court, Madras.

4. The Record Keeper,
Criminal Section,
High Court, Madras.

5. The Joint Secretary and Tresurer,
Chief Minister's Public Relief Fund,
Finance (CMPRF) Department,
Government of Tamil Nadu,
Chennai - 9.

+1cc to Mr.A.Murugavel, Advocate, S.R.No.64420

Crl.R.C.No.883 of 2021

PM(CO)
SU(13/12/2021)