

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.27547 of 2021

M/s.Equitas Small Finance Bank Limited

Rep by its

Authorised signatory Mr.R.S.Bharath

Emp.No.31681), 4th floor, Phase-II,

Spencer Plaza,769 Anna salai,

Chennai, Tamil Nadu-600 002.

.....Petitioner

Vs

1 The Deputy Superintendent of
Police Prohibition Enforcement wing
Krishnagiri District

2 The Inspector of Police
Prohibition Enforcement wing Krishngiri
District

3 MunirajRespondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent herein to release the vehicle namely Mahindra Pick-up Van bearing registered No. TN-70-AF 3160 vide Engine No. TNL1M71916 and Chasis No. MA1ZU2TNKL1M61873 which was seized on 28.5.2021 in connection with Crime No.380 / 2021 on the file of the 2nd respondent police and permit the petitioner bank to take interim custody of the same.

For petitioner : Mr. R.Meenakshi Devi

For Respondents : Mr. R.Murthi R1 & R2
Government Advocate (Cr1. Side)

O R D E R

This petition has been filed to issue a writ of mandamus directing the 2nd respondent herein to release the vehicle namely Mahindra Pick-up Van bearing registered No. TN-70-AF 3160 vide Engine No. TNL1M71916 and Chasis No.

MA1ZU2TNKL1M61873 which was seized on 28.5.2021 in connection with Crime No.380 / 2021 on the file of the 2nd respondent police and permit the petitioner bank to take interim custody of the same.

2. The case of the petitioner is that the petitioner is the Manager of the above said company. The third respondent availed loan for a sum of Rs.7,35,000/- in the petitioner's company on 02.01.2021 and purchased a vehicle viz., Mahindra Van. Thereafter, the petitioner came to know that on 28.05.2021, the said vehicle was seized by the second respondent as the said vehicle was involved in liquor and smuggling and therefore, the second respondent registered a case in Cr.No.380/2021 for the offence under Section 4(1)(a) of Tamil Nadu Prohibition Act, 1937 against the third respondent. The third respondent has not paid the loan amount till date. Therefore, the petitioner has made a representation dated 23.11.2021 before the respondents 1 & 2 to return the said vehicle. Till date, the same was not considered. Hence, the present writ petition has been filed before this Court seeking return of vehicle.

3. The learned counsel for the petitioner submitted that the third respondent has purchased the subject vehicle after availing loan from the petitioner. But, the third respondent has not paid any loan amount to the petitioner. and, therefore, the said vehicle absolutely belongs to the petitioner. The vehicle is kept in open space which is in outside of the office of the second respondent. Therefore, this Court may issue a direction to the respondents 1 & 2 to consider the petitioner's representation and release the vehicle to the petitioner.

4. The learned Government Advocate (Crl side) for the respondents 1 & 2 submitted that that once the vehicle is seized from the accused, it is a case property and the second respondent have no power to release the vehicle to the petitioner. Hence, the present writ petition is liable to be dismissed.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl. side) and perused the materials available on record.

6. The petitioner submitted that the third respondent borrowed a loan from the petitioner and purchased a vehicle and thereafter, he did not return the loan amount. Hence, the petitioner claims that he is the owner of the said vehicle, which was seized by the second respondent police. Admittedly, the second respondent seized the vehicle as the said vehicle was

involved in liquor and smuggling and therefore, the second respondent registered a case in Cr.No.380/2021 for the offence under Section 4(1)(a) of Tamil Nadu Prohibition Act, 1937 against the third respondent.

7. It is seen from records that the petitioner is not a owner of the vehicle and he is only a financier of the said vehicle and he has to file a petition before the trial court under section 451 of Cr.P.C., through the third respondent. The second respondent has no power to release the vehicle. Only the jurisdictional court has power to release the vehicle under Section 451 of Cr.P.C.

8. In view of the above, the prayer sought for by the petitioner is not maintainable. However, liberty is granted to the petitioner to work out his remedy in the manner known to law.

with the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

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To

- 1 The Deputy Superintendent of
Police Prohibition Enforcement wing
Krishnagiri District
- 2 The Inspector of Police
Prohibition Enforcement wing Krishngiri
District

+lcc to Mr.A.Damodaran, Advocate SR.No.69361

W.P.No.27547 of 2021

GJ(CO)
GMY(19/01/2022)