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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.01.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.827 of 2021

R.Venkatesh ... Petitioner

Vs.

1. The Additional Superintendent of Police,
(Prohibition Enforcement Wing),
Ramanathapuram,
Ramanathapuram District.

2. The Inspector of Police,
Thirupullani police station,
Ramanathapuram,
Ramanathapuram District. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 1 and 2 herein to release the petitioner's Maruthi Omni car bearing registration No.TN-06 B 6178 from their custody on the basis of the petitioner's representation dated 14.12.2020.

For Petitioner : Mr.C.Susi Kumar
For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

O R D E R

Heard the learned counsel on either side. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner claims to be the owner of the petition mentioned vehicle. It was seized in connection with the petition mentioned crime number. The petitioner's counsel states that till date the vehicle in question has not been produced before the jurisdictional court.

3.It has been held time and again that keeping the vehicle in the custody of the respondents is not going to serve any purpose. On the other hand, it will contribute to loss of value. Even though the criminal case has been registered, the vehicle in question is yet to be produced before the jurisdictional Court. The case is still under investigation. Therefore, the Writ Court will always have the power to direct release of vehicle.

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4.The petitioner's counsel on instructions gives an undertaking that the petitioner will not alienate the petition mentioned vehicle till the confiscation proceedings are over. He also gives a further undertaking that the petitioner will also produce the vehicle as and when the respondents call for the vehicle for enquiry and cooperate with the enquiry to be conducted by the respondents. He further states that the vehicle has not been involved in any previous case of the same nature. He also submitted that the petitioner is also not having any previous case. The petitioner undertakes to remit a sum of Rs.5,000/- as non refundable cost.

5.I make it clear that it is very much open to the respondents herein to initiate and conclude the confiscation proceedings. The only relief that I am granting is interim custody of the vehicle. I have not gone into the merits of the matter.

6.Recording the submission made by the learned counsel for the petitioner on instructions, I direct release of the petition mentioned 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 Superintendent, Government Observation Home, No.164, Kamarajar Salai, Madurai – 625 009, in Bank Account Number : 161401000024282, IFSC Code : IOBA0001614, Indian Overseas Bank, Teppakulam. It will be a non refundable payment.

b) The Superintendent of the Observation Home is directed to spend the said amount for the welfare of the institution or that of its inmates or towards the rehabilitation of its former inmates. The Superintendent shall submit a report to the Registrar (Administration), Madurai Bench of the Madras High Court, Madurai indicating the exact deployment of funds. The bills and other relevant materials will be enclosed along with the report. The Chairman, Juvenile Justice Board, Madurai will oversee the process and ensure the end-use.

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

d) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle. If the petitioner concerned is an agreement holder and the R.C book is with the financier, he or she can be permitted to produce the photocopies of the relevant documents and if the vehicle is a new one,

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sales invoice can be produced.

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

7.After completion of the aforesaid formalities, the respondents shall release the petition mentioned vehicle forthwith without any delay. The confiscation proceedings can go on. If the undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future and the order passed by this Court will stand recalled and the vehicle in question will be taken back to custody and it will be released only after getting orders from this Court on such terms as this Court may deem it fit to impose.

8.The Writ Petition is allowed accordingly. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Additional Superintendent of Police,
   (Prohibition Enforcement Wing),
   Ramanathapuram, Ramanathapuram District.

2. The Inspector of Police,
   Thirupullani police station,
   Ramanathapuram, Ramanathapuram District.

Copy to:

1.The Superintendent, Government Observation Home,
No.164, Kamarajar Salai, Madurai - 625 009.

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2.The Registrar (Administration),
Madurai Bench of the Madras High Court, Madurai.

3.The Chairman,Juvenile Justice Board,Madurai.

+1 CC to M/s.GP (SR-1876[F] dated 22/01/2021)

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(MJ)CO
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