



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4027 of 2021

and

W.M.P.(MD)No.3244 of 2021

Rajendran

... Petitioner

-Vs-

1.State represented through
Additional Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.

2.The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.
(Crime No.166 of 2019)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to release the petitioner's vehicle in bearing Registration No.TN 64 J 7975 within a stipulated time to be fixed by this Court.

For Petitioner : Mr.M.Paramasivam
For Respondents : Mrs.S.Srimathy
Special Government Pleader

ORDER

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

2.The petitioner is the owner of the petition mentioned two wheeler. It got involved in Crime No.166 of 2019 registered on the file of the second respondent for the offence under Section 4(1)(a) of Tamilnadu Prohibition Act. The confiscation proceedings were initiated. Notice was issued as early as on 10.03.2020. The petitioner is said to have given his reply. Till date, no final order has been passed. In this background, the petitioner has moved this Court for getting interim custody.

3.The Hon'ble Supreme Court in the decision reported in (2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat) has held as follows:-

<https://hcservices.ecourts.gov.in/hcservices/>



"17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

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.

5. 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 shall not alienate or encumber the vehicle in question till the proceedings are completed.
- b) 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, sales invoice can be produced.
- c) 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.

6. 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. The only relief that I am granting is interim custody of the vehicle. I make it clear that I have not gone into the merits of the matter.



7.The Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

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 District.

2.The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.

+1 CC to M/s.M.PARAMASIVAM, Advocate (SR-8800[F] dated 04/03/2021)

W.P.(MD)No.4027 of 2021

and

W.M.P.(MD)No.3244 of 2021

04.03.2021

SGS(CO)

TR(10.03.2021) 3P 4C