

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated: 07.07.2021****CORAM****THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI****Crl.RC(MD)No.345 of 2021**

Krishnapillai

... Revision Petitioner/Petitioner/
Accused

Vs.

The State rep. by its
The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
(Crime No.465 of 2020)

... Respondent/Respondent/Complainant

Prayer: Criminal Revision filed under section 397 r/w 401 of the Code of the Criminal Procedure, against the order, dated 25.01.2021 made in Crl.MP No.359 of 2021 on the file of the Judicial Magistrate No1, Kulithurai, Kanyakumari District.

For Revision Petitioner : Mr.S.Deenadhayalan for K.Rajesh

For Respondent : Mr.P.Kottaichamy
Standing counsel for
State Government (Crl. Side)**O R D E R**

This Criminal Revision is filed against the order, dated 25.01.2021 made in Crl.MP No.359 of 2021 on the file of the Judicial Magistrate No.1, Kulithurai, Kanyakumari District.

2.It is seen from the records that on 26.10.2020, the respondent police officials said to have inspected the Star Hotel namely Melathil Star Hotel at Panachamodu, Mancode post and found 2624 Unit of Liquor Bottles in the premises of the said hotel. In this connection, the respondent police registered the case in Crime No.465 of 2020 for the alleged offence under section 4(1)(aaa), 4(1)(i) and Section 24 of Tamil Nadu Prohibition Act. The seized liquor bottles were produced before the Judicial Magistrate No.1, Kulithurai. The petitioner filed Cr.M.P No.359 of 2021 seeking interim custody of the liquors. The said petition was dismissed by the trial court, dated 25.01.2021. Challenging the same, the petitioner is before this court.

3. Heard both sides and perused the materials available on record.



4. It is seen from the records that the petitioner obtained necessary permission from the Prohibition and Excise Department for running FL3/Star Hotel and to sell the liquor for serving the customers staying in the Hotel. It is also seen from the records that the alleged properties were duly purchased under the valid receipt from the TASMAL outlet only. Further, on the side of the prosecution, it is stated that the liquor is free from toxic substance.

5. Under these circumstances, this court is of the view that the petitioner is entitled to get interim custody of the liquor.

6. Accordingly, this criminal revision is **allowed** and the order, dated 25.01.2021 made in Cr.M.P. No.359 of 2021 on the file of the Judicial Magistrate No.1, Kulithurai, is set aside. The learned Magistrate is directed to return the alleged property to the petitioner on the following conditions:-

(1) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.1, Kulithurai;

(2) on further condition that the petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten thousand only) before the learned Judicial Magistrate No.1, Kulithurai, to the credit of Crime No.465 of 2020 on the file of the respondent, within a period of two weeks from the date of receipt of a copy of this order; and

(3) On compliance of clause (1) and (2), the properties shall be handed over to the petitioner for interim custody, on such condition the Judicial Magistrate thinks fit.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

er

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 Judicial Magistrate No.1,
Kulithurai,
Kanniyakumari District.
2. The Inspector of Police,
Arumanai Police Station,
Kanyukumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.RC(MD) No.345 of 2021
07.07.2021

RC (16.07.2021) 3P-4C