



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.05.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.9334 of 2021

Aravind

... Petitioner

Vs.

1.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Karur,
Karur District.

2.The Inspector of Police,
Prohibition Enforcement Wing,
Karur,
Karur District.
(Crime No.393 of 2021)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 03.05.2021 immediately and release the petitioner's Auto Rickshaw bearing Registration No.TN 47 AE 4189 seized on 02.04.2021 in pertaining to the case in Crime No.393 of 2021 on the file of the second respondent herein and hand over the same to the petitioner.

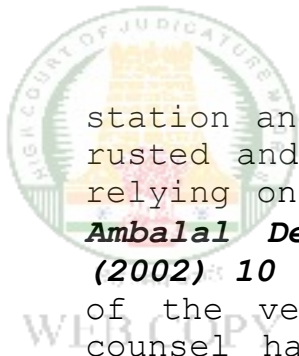
For Petitioner : Mr.B.Santhanamrajeshkumar
For Respondents : Mr.J.Gunaseelan Muthiah,
Additional Government Pleader

ORDER

This writ petition is filed for a Mandamus directing the respondents to release the petitioner's Auto Rickshaw bearing Registration No.TN 47 AE 4189, which was seized on 02.04.2021 in connection with a case in Crime No.393 of 2021 on the file of the Inspector of Police, Prohibition Enforcement Wing, Karur, Karur District and hand over the same to the petitioner.

2. The case of the petitioner is that on 02.04.2021, the second respondent police has found that a passenger of his Auto Rickshaw was in possession of 159 bottles of brandy each consisting of 180 ml., and registered a case against the passenger namely one Ajith and against this petitioner/auto driver for the offence punishable under Section 4(1)(a) of the Tamil Nadu Prohibition Act in Crime No.393 of 2021 and has also seized his vehicle in the said crime number.

3. The learned counsel for the petitioner would submit that the petitioner's vehicle has not been produced before the concerned Judicial Magistrate and lying in the second respondent police



station and if it is exposed to sunlight and weather, it would get rusted and it would not be useful for any purpose. Therefore, by relying on the decision of the Honourable Apex Court in **Sunderbhai Ambalal Desi and C.M.Mudaliar vs. State of Gujarat** reported in (2002) 10 SCC 383, the learned counsel submits that interim custody of the vehicle may be granted to the petitioner. The learned counsel has also relied on similar orders of this Court wherein interim custody has been granted by this Court pending confiscation proceedings.

4. Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader takes notice for the respondents and would submit that it is not alone the petitioner's vehicle, along with that vehicle, nine other auto rickshaws were found transporting spurious liquors on 02.04.2021 and on information, the second respondent police inspected the vehicles and seized the vehicles on 02.04.2021. He would further state that the confiscation proceedings is now pending before the District Collector.

5. This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

6. It appears that the petitioner's vehicle has been seized by the second respondent police in connection with Cr.No.393 of 2021 for the offence punishable under Section 4(1) (a) of the Tamil Nadu Prohibition Act and any vehicle which is seized under the prohibition Act, is liable to be confiscated Under Section 14 of the Tamil Nadu Prohibition Act and it appears that the District Collector has also initiated the confiscation proceedings by issuing a show cause notice to the petitioner. Though the vehicle has been seized it appears that the vehicle has not been produced before the concerned Judicial Magistrate.

7. This Court in the earlier orders has granted a similar relief pending the confiscation proceedings with certain conditions. Following the earlier orders of this Court, the present order is passed directing the 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 'Idhayam Trust', in Bank Account Number : 500101011717480, IFSC Code : CIUB0000506, City Union Bank, Chockikulam Branch. It will be a non refundable payment. It is made clear that the amount to be paid by the petitioner is without prejudice to the confiscation proceedings.

b) The petitioner shall not alienate or encumber the vehicle in question till the proceedings are



completed.

c) 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.

d) 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.

8. After completion of the aforesaid formalities, the respondents shall release the petition mentioned vehicle forthwith without any delay. The respondents shall proceed with the confiscation proceedings and take a final decision depending upon the materials and reply of the petitioner and pending confiscation proceedings, the vehicle may be released to the petitioner. If any one of the aforesaid conditions 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.

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

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm/am

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,
Karur,

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



2.The Inspector of Police,
Prohibition Enforcement Wing,
Karur,
Karur District.

WEB COPY

COPY TO:
M/s.Idhayam Trust,
Old Maternity Hospital,
Reserve Police Line,
Madurai-625 014.

+1 CC to M/s.GP (SR-18496[F] dated 06/05/2021)

W.P (MD) No.9334 of 2021
05.05.2021

KK(01.06.2021) 4P 5C