



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.9691 of 2021

Ponmani

... Petitioner

Vs.

1.The District Supply Officer,
Collectorate Complex,
Tirunelveli,
Tirunelveli District.

2.The Inspector of Police,
Civil Supplies C.I.D,
Tirunelveli Unit,
Madurai District.
In Crime No.73/2021.

3.The District Revenue Officer,
Tirunelveli,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondents herein to forthwith to release the petitioner's TATA ACE bearing Registration No.TN 69 BC 3726 from their custody on the basis of the petitioner's representation, dated 15.05.2021.

For Petitioner : Mr.C.Susi Kumar

For Respondents : Mr.P.Thilak Kumar,

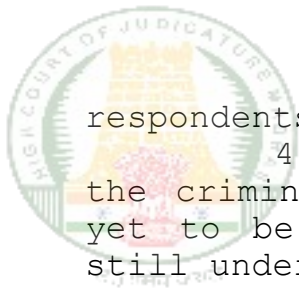
Standing Counsel for Government

ORDER

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. According to the petitioner, his vehicle has been seized by the respondents in connection with Crime No.73/2021, for the offences under Section 17 of Tamilnadu kerosene (Regulation of Trade) Order 1973 r/w 7 (I) (a) (ii) of Essential Commodities Act 1955 alleging that the vehicle was involved in transportation of 350 liters of kerosene.

3.The learned counsel for the petitioner would submit that the petitioner's vehicle was in the custody of the respondents and they have not taken any steps to produce the vehicle before the Court. The grievance of the petitioner is that even after receiving the petitioner's representation, dated 15.05.2021 to release the vehicle, there is no progress. Hence, he would pray to direct the



respondents to release the vehicle.

4. The learned Government Advocate states that 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.

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5. The petitioner's counsel gives an undertaking that the petitioner will see to it that the vehicle is not involved in any other offences of similar nature. The vehicle will be produced before the authority or the Court concerned as and when required. The learned counsel appearing for the petitioner states that the vehicle will not be alienated.

6. The submission of the learned counsel for the petitioner is placed on record. If the undertaking given before this Court is breached, the benefit of this order 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.

7. I am of the view that so long as the vehicle has not been produced before the Jurisdictional Court, the Writ Court will always have the power to direct for the release of the vehicle. Moreover, keeping the petition mentioned vehicle in the custody of the respondents is not going to serve any purpose. 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:-

"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.

8. Therefore, the respondents are directed to release the said vehicle subject to the following conditions:-

- a) The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai-9 (Account No.11720 10000 00070, IFSC Code: IOBA0001172);
- 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.

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

9. Upon completion of these formalities, the respondents shall release the vehicle forthwith without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future. The Writ Petition is allowed accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS III)

// 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 District Supply Officer,
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Tirunelveli District.

2.The Inspector of Police,
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+1 CC to M/s.SPL GP (SR-18825[F] dated
04/06/2021)

W.P(MD)No.9691 of 2021

03.06.2021