



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.[MD]No.13373 of 2021

WEB COPY

Poosaipandian

... Petitioner

Vs.

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

2.The Inspector of Police,
Puliyankudi Police Station,
Tenkasi District,
In Crime No.269/2021.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 herein to forthwith release the petitioner's Yamaha SZR bearing Registration No.TN 76 U 0704 from their custody on the basis of his representation dated 15.07.2021.

For Petitioner : Mr.C.Susi Kumar

For Respondent : Mr.D.Gandhi Raj

Government Advocate (Civil Side)

O R D E R

The prayer sought for herein is for a Writ of Mandamus, directing the respondents 1 and 2 herein to forthwith release the petitioner's Yamaha SZR bearing Registration No.TN 76 U 0704 from their custody on the basis of his representation dated 15.07.2021.

2.It is the petitioner's case that the petitioner's two wheeler bearing Registration No.TN 76 U 0704 was seized by the respondent pertaining to the case in Crime No.269 of 2021 dated 09.06.2021.

3.In this context, it is the case of the petitioner that the petitioner while was moving to attend the domestic work in the said vehicle, the same has been inspected and the vehicle has been seized by the respondent police, where the said case for the alleged offences punishable under Sections 4(1)(a) and 14A of the Tamil Nadu Prohibition Act was imposed against the petitioner. However, insofar as the said case is concerned, according to the petitioner, the vehicle in question is not involved. It is the further case of the petitioner that the vehicle belonging to the petitioner is the only vehicle which is utilised for all domestic purposes and the same is continuously kept under the custody of the respondent police. He further submits that due to exposure to sunlight and rain, the value



of the vehicle would get diminished. Therefore, the vehicle can be directed to be released to the petitioner. Learned Counsel for the petitioner further submits that whatever condition this Court imposes, the petitioner is ready to abide by the same.

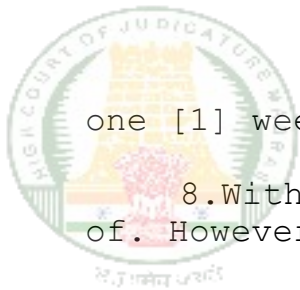
4. Heard Mr.D.Ghandiraj, learned Government Advocate (Civil Side), appearing for the respondents, who would submit that insofar as the said case is concerned, investigation is still pending and if the vehicle is directed to be released, the petitioner may tamper the vehicle and sell or create any third party right. Further, after the completion of the investigation, the vehicle has to be produced before the concerned Magistrate, which may be difficult if the vehicle is now ordered to be released. Therefore, for such reason, he wants the vehicle to be retained.

5. I have heard the submissions made by both the learned Counsels and I have perused the materials placed before this Court.

6. Insofar as the said criminal case is concerned, even according to the respondents, the investigation is still pending and whether the person against whom such case was imposed has committed the offence or not has to be thoroughly investigated and the charge sheet should be filed, which may take some time. In the meantime, as rightly pointed out by the learned Counsel for the petitioner, the vehicle may get exposed to sunlight and rain and by then, the value of the vehicle would get diminished. Therefore, it would be appropriate that the vehicle is released from the custody of the respondent police. In such a case since the vehicle has not been produced so far before the learned Magistrate Court for custody, this Court can very well make an order to release the vehicle for interim custody to the petitioner, who is the owner of the vehicle concerned. In order to meet the apprehensions made by the learned Government Advocate, that the vehicle may be exploited during the investigation, the following conditions are made:

"The respondent is directed to consider the representation of the petitioner and the vehicle bearing Registration No.TN 76 U 0704, shall be given to the petitioner for interim custody on condition that the petitioner shall surrender all original documents pertaining to the said vehicle to the respondent police and the vehicle shall not be exploited or no third party right shall be created until further orders and the petitioner shall give an undertaking in writing to the respondent to produce the said vehicle whenever it is required for investigation and for further purposes in the said case as and when required by the respondent."

7. With the above conditions, the vehicle in question shall be released to the petitioner as an interim custody within a period of



one [1] week from the date of receipt of a copy of this order.

8. With the above direction, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

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),
Tenkasi,
Tenkasi District.

2. The Inspector of Police,
Puliyankudi Police Station,
Tenkasi District.

+1 CC to M/s.GP (SR-25062[F] dated 03/08/2021)

W.P.[MD]No.13373 of 2021

02.08.2021

RD(13.08.2021) 3P 4C