



WEB COPY

**W.P.(MD)No.14732 of 2021**

Mohamed Asarudeen v. The Superintendent of Police

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.08.2021**

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR**

**W.P. (MD)No.14732 of 2021**  
(Through Video Conference)

Mohamed Asarudeen

... Petitioner

Vs.

1.The Superintendent of Police,  
Ramanathapuram,  
Ramanathapuram District.

2.The Deputy Superintendent of Police,  
District Crime Branch cum In-Charge of Prohibition Wing,  
Ramanathapuram District.

3.The Inspector of Police,  
Valinockam Police Station,  
Ramanathapuram District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to release the petitioner's Pulsar NS-200, Sparkling Black, bearing Registration No.TN-65-AW-4136, Engine No.JLYCJC39153, Chassis No.MD2A36FY2JCD47483, seized by the 3<sup>rd</sup> respondent Police on 10.06.2021, by considering the petitioner's representation, dated 16.07.2021 within a time stipulated by this Court.

For Petitioner : Mr.A.Arputharaja

For Respondents : Mr.D.Ghandiraj  
Government Advocate

**ORDER**

Prayer sought for herein is for a Writ of Mandamus, to direct the respondents to release the petitioner's Pulsar NS-200, Sparkling Black, bearing Registration No.TN-65-AW-4136, Engine



No.JLYCJC39153, Chassis No. MD2A36FY2JCD47483, seized by the 3<sup>rd</sup> respondent Police on 10.06.2021, by considering the petitioner's representation, dated 16.07.2021, within a time frame.

2.Due to the alleged involvement of the vehicle, two wheeler, Pulsar NS-200, Sparkling Black, bearing Registration No.TN-65-AW-4136, Engine No.JLYCJC39153, Chassis No. MD2A36FY2JCD47483, belongs to the petitioner in a case related to the offence punishable under Section 14(1) (a) of the Tamilnadu Prohibition Act, 1937, a case has been registered in Crime No.51 of 2021 on the file of the third respondent and accordingly, on 10.05.2021, the vehicle in question was seized by the third respondent and the investigation is still pending.

3.Only in this context, the present writ petition has been filed by the petitioner with the aforesaid prayer.

4.Mr.A.Arputharaja, learned counsel appearing for the petitioner would submit that, insofar as the completion of investigation is concerned, the petitioner would cooperate with the respondents and in this context, it is a case of the petitioner that, the vehicle in question has not involved in the alleged crime. Be that as it may, during the investigation time, if the vehicle has been kept in custody continuously by exposing to sunlight and rain, that would diminish the value of the vehicle as the parts would get rusted, therefore, if the vehicle is released by way of interim custody to the petitioner, no prejudice would occurred to the respondents, therefore, the learned counsel for the petitioner seeks indulgence of this Court.

5.Per contra, Mr.D.Ghandiraj, learned Government Advocate, appearing for the respondents, on instructions, would submit that the petitioner's vehicle had been involved in the alleged crime, therefore, the vehicle was seized and it has been under the custody of the respondents, however, since the investigation is going on, the vehicle could not be produced before the Magistrate for the purpose of confiscation and therefore, in the present circumstances, if the vehicle is directed to be released by way of interim custody, the petitioner may create a third party right and may encumber by selling the vehicle or transfer the vehicle to any third party, and in that case, it is difficult for the investigating agency to produce the vehicle in question before the Magistrate concerned, at the time of filing charge sheet and at the time of trial. Therefore, he opposes to the release of the vehicle as interim custody to the petitioner.



6. I have considered the said submissions made by the learned counsel for the parties and have perused the materials placed before this Court.

7. Whether the vehicle in question is involved in crime or not has to be investigated and that would be decided only by the Trial Court, before which, after investigation, charge sheet can be filed by the respondent police. However, in the meanwhile, as rightly pointed out by the learned counsel for the petitioner, if the vehicle in question is exposed to sunlight and rain, definitely, the value of the vehicle will get diminished, therefore, by way of interim custody, the vehicle can be released to the petitioner with the condition that the petitioner shall produce the vehicle as and when required, and also the petitioner shall surrender all original documents pertaining to the vehicle to the respondent police and shall not encumber the vehicle in any form, till the investigation is completed and the criminal case, in this regard, is completed. With these conditions, the vehicle in question can be released by the respondent police, by way of interim custody to the petitioner and the needful can be undertaken by the respondents within a period of one week from the date of receipt of a copy of this order.

8. With these directions, this writ petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

PJL

**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 Superintendent of Police,  
Ramanathapuram,  
Ramanathapuram District.

2.The Deputy Superintendent of Police,  
District Crime Branch cum In-Charge of Prohibition Wing,  
Ramanathapuram District.

3.The Inspector of Police,  
Valinockam Police Station,  
Ramanathapuram District.

+1 CC to M/s.GP ( SR-26774[F] dated 19/08/2021 )

**W.P. (MD)No.14732 of 2021**  
**18.08.2021**

MGJ(04.10.2021) 4P 5C