



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P.[MD]No.14805 of 2021

Chinraj

... Petitioner

Vs.

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

2.The Inspector of Police,
Oddanchatram Police Station,
Dindigul District.
(Crime No.381 of 2021)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to release the petitioner's Bolero vehicle bearing Registration No.TN 22 AS 1666 based on the petitioner's representation on 05.08.2021, within a stipulated time that may be fixed by this Court.

For Petitioner	: Mr.R.Senthilkumar
For Respondents	: Mr.D.Ghandiraj Government Advocate

O R D E R

The prayer sought for herein is for a Writ of Mandamus, directing the respondents to release the petitioner's Bolero vehicle bearing Registration No.TN 22 AS 1666 based on the petitioner's representation on 05.08.2021.

2. It is the case of the petitioner that the petitioner is an agricultural coolie and he is an aged person and residing in a hilly area. Therefore, since very often he has to go to the hospital for taking medical treatment, he purchased a car ie., Mahindra Bolero bearing Registration No. TN 22 AS 1666, from one Velankanni of Pallangi, Vilpatty village, Kodaikanal Taluk, Dindigul District.

3. The said car was taken by the petitioner's son on 08.05.2021 to Oddanchatram. Thereafter, the petitioner came to know that at Oddanchatram, the second respondent police intercepted the vehicle and found that the vehicle was carrying 241 liquor bottles.



Therefore, the vehicle was seized by the respondent police and a case was registered in Crime No.381 of 2021, for the offence punishable under Section 4(1)(a) of the Tamil Nadu Prohibition Act, 1937. The case is pending investigation.

4. In this context, in order to get the vehicle back by way of interim custody, the petitioner has given a representation to the respondents on 05.08.2021, which since having not been considered, the petitioner has approached this Court by filing the present writ petition.

5. Heard Mr.R.Senthilkumar, learned Counsel for the petitioner, who having reiterated the aforesaid would submit that, the petitioner is an innocent and aged man and he is never involved in any such case and therefore, for his own use to go to hospital, the vehicle in question is required. Hence, he wants a direction by this Court to the respondents to release the vehicle of the petitioner.

6. Per contra, learned Government Advocate, on instructions, would submit that, the petitioner seems to be a habitual offender of this nature, where there has already been atleast two cases filed or registered, one at Oddanchatram Police Station in Crime No.2209 of 2020 and another at Palani Police Station in Crime No.41 of 2021, against the petitioner and those cases are also pending.

7. According to the learned Government Advocate, this is the third case registered against the petitioner. Therefore, the history of the petitioner would disclose that, he is a habitual offender of this nature and therefore, a thorough investigation has to be conducted. Only at the end of the investigation, it can be decided whether the vehicle can be released or not and at present the same cannot be released as an interim custody, as the petitioner would use the vehicle again for committing the same offence or similar offences of this nature. Therefore, the learned Government Advocate appearing for the respondents opposed the prayer sought for in this writ petition.

8. I have considered the rival submissions made by the learned Counsel for the parties and have perused the materials placed before this Court.

9. Insofar as the case as projected by the petitioner is concerned, he claims to be an agricultural coolie. If he is an agricultural coolie, how he is able to mobilise funds to purchase the vehicle ie., Mahindra Bolero, is not known.

10. Be that as it may, the petitioner claimed that the vehicle was purchased only for his hospital purposes, as he has to very often go to the hospital to take treatment.



11. The fact remains that against the petitioner, already two cases have been registered, in respect of similar offences, as stated above. Therefore, these facts coherently go to show that the petitioner may be a habitual offender of this nature and this is the third case in row. As rightly pointed out by the learned Government Advocate, the investigation has to be conducted thoroughly and ultimately, the respondent police has to take a decision whether the vehicle in question has to be confiscated or not. Merely because at present the investigation is pending and the vehicle is yet to be confiscated, it may not be a matter of course that the petitioner is entitled to get the vehicle as interim custody. If this kind of habitual offenders are not dealt with firmly, the respondents cannot maintain the law and order, especially in the context of preventing this kind of habitual offenders from making a recurrence of the same offence.

12. In that view of the matter, this Court feels that the present plea sought for by the petitioner cannot be considered and granted at this moment. Therefore, let the investigation going on at the hands of the respondents be completed and by take its logical conclusion at the earliest possible and at the end of the investigation, if the vehicle is ultimately confiscated, it is open to the petitioner to make an application before the concerned Magistrate Court in the manner known to law for interim custody. Therefore, for the above reasons, the plea raised by the petitioner is rejected.

13. Accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS I)

// 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 District Superintendent of Police,
Prohibition Enforcement Wing,
Dindigul District.



2.The Inspector of Police,
Oddanchatram Police Station,
Dindigul District.

+1 CC to M/s.SPL.GP (SR-29854[F] dated 22/09/2021)

WEB COPY

W.P. [MD]No.14805 of 2021
21.09.2021

MGJ(20.10.2021) 4P 4C