



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.08.2021**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.15224 of 2021

S.Murugesan

... Petitioner

Vs.

1.The Additional Superintendent of Police,
Headquarter(Incharge),
Enforcement of Prohibition Wing,
Ramanathapuram District.

2.The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the Respondents to release the Petitioner's two wheeler "HERO PASSION XPRO CS" bearing registration no. TN 65 U 7578 by considering the petitioner's representation dated 18.08.2021 within the time stipulated by this Court.

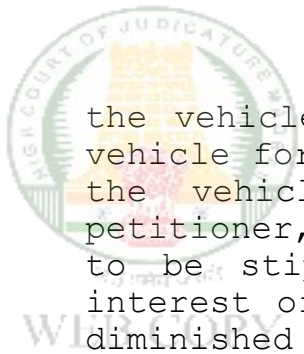
For Petitioner	: Mr.V.Manikandan
For Respondents	: Mr.D.Ghandiraj Government Advocate

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondents to release the Petitioner's two wheeler "HERO PASSION XPRO CS" bearing registration No.TN 65 U 7578 by considering the petitioner's representation dated 18.08.2021.

2.The petitioner claims that the petitioner is the owner of the vehicle, two wheeler "HERO PASSION XPRO CS" bearing registration No.TN 65 U 7578 and the same was seized by the respondent police in connection with the criminal case in Crime No.334 of 2021 for alleged offence punishable under Section 4(1)(a) of the Tamil Nadu Prohibition Act, dated 14.08.2021 and the vehicle is in the custody of the respondent police as of now.

3.In this context, it is the case of the petitioner that the petitioner has not involved in the alleged crime and anyhow, the investigation is still pending and it may take sometime for completing the investigation. Hence, if the vehicle in question is permitted to be at the custody of the respondent police, the vehicle may get exposed in sunlight and rain and in the result, the value of



the vehicle would get diminished. Moreover, since it is the only vehicle for the household usage of the petitioner and his family, if the vehicle in question is released or handed over to the petitioner, by way of an interim custody with stringent conditions to be stipulated in this regard, that would not prejudice the interest of any one, otherwise, the value of the vehicle would get diminished and therefore, he seeks indulgence of this Court to issue Mandamus as prayed for.

4. Heard, Mr.D.Ghandiraj, learned Government Advocate appearing for the respondents, who on instructions would submit that, this is the first case against the petitioner that has been registered by the respondent police, as there has been no previous case pending against the petitioner. Moreover, the investigation is in the initial stage. Hence, at this juncture, if the vehicle is released, there may be chance that the vehicle may get tampered and third party right may be created by the petitioner. Therefore, in order to avoid the same, the plea of the petitioner can be rejected, he contended.

5. I have considered the said rival submissions of the learned counsel appearing for both sides and have perused the materials placed on record.

6. No doubt that there is a case against the petitioner and in connection with the same, the vehicle in question was seized by the respondent police and according to the latest instructions, the investigation is yet to be completed. Therefore, it will take reasonable time to complete the investigation and to file a charge sheet. Till such time, if the vehicle is permitted to be exposed to sunlight and rain, that will certainly diminish the value of the vehicle concerned and therefore, in order to avoid the same, the vehicle if it is given by way of interim custody to the petitioner with conditions, that would save the interest of both the petitioner as well as the respondents in completing the investigation and proceed further in the case.

7. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following order:

that the vehicle, two wheeler "HERO PASSION XPRO CS" bearing registration No.TN 65 U 7578 of the petitioner connected with Crime No.334 of 2021 on the file of the respondent police shall be released by way of interim custody to the petitioner with the following conditions:

(i) the petitioner shall hand over all the original documents pertaining to the vehicle to the respondent police;



(2)The vehicle shall not be alienated or tampered with;

(3)The vehicle shall be produced to the respondent police, as when required for completion of the investigation; and

(4)The vehicle shall not be moved from the jurisdiction of the respondent police.

With these conditions, the vehicle in question can be released by way of an interim custody to the petitioner and needful shall be undertaken by the respondents within a period of two weeks from the date of receipt of a copy of this order.

8.With the above directions, this Writ Petition is disposed of.
No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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,
Headquarter(Incharge),
Enforcement of Prohibition Wing,
Ramanathapuram District.

2.The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram.

+1 CC to M/s.GP (SR-27397[F] dated 26/08/2021)

W.P. (MD)No.15224 of 2021

25.08.2021