



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.09.2021**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.16039 of 2021

(Through Video Conference)

WEB COPY

Muruga Bharathy

... Petitioner

-Vs-

1.The Deputy Commissioner of Police,
[Law and Order],
Tirunelveli City.

2.The Inspector of Police,
PEW - Tirunelveli City,
Tirunelveli City.
(Crime No.433/2021)

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the first respondent to release the petitioner's Vehicle namely MARUTI CIAZ Car, bearing registration No.TN 72 BC 3999 from the custody of the 2nd respondent and to hand over the same to the petitioner forthwith by considering the petitioner's representation dated 28.08.2021, within the time that may be stipulated by this Court.

For Petitioner : Mr.M.S.Jeyakarthik
For Respondents : Mr.D.Ghandiraj
Government Advocate

ORDER

Prayer sought for herein is for a writ of mandamus, directing the first respondent to release the petitioner's Vehicle, namely, MARUTI CIAZ Car, bearing registration no. TN 72 BC 3999 from the custody of the 2nd respondent, and to hand over the same to the petitioner forthwith by considering the petitioner's representation, dated 28.08.2021, within the time that may be stipulated by this Court.

2.The petitioner claimed that he is the owner of the vehicle, that is, four wheeler, namely, MARUTI CIAZ Car, bearing registration No.TN 72 BC 3999. He is retired Military man and when he was plying with the said vehicle on 09.08.2011, the vehicle was intercepted and on the alleged reason that, he transported 73 number of military liquor bottles, the second respondent police has seized the vehicle, and it is currently in the custody of the second respondent.



3. In this context, an FIR in Crime No.433 of 2021 has been registered on 09.08.2021 for the alleged offence punishable under Section 41(aa) and 4 (1)(i) of the Tamilnadu Prohibition Act.

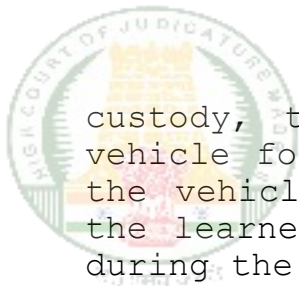
4. According to the petitioner, the investigation is pending and in the guise of pendency of investigation, the vehicle in question has been kept in the second respondent's custody, and it is exposed to rain and sunlight, therefore, during the pendency of the investigation, since the vehicle has not been produced before the Magistrate, or the vehicle is not so far been confiscated, if it is continued to be in the custody of the second respondent police, and exposed to sunlight and rain, certainly the parts of the vehicle would get damaged and value of the vehicle would get diminished, therefore, instead of keeping the vehicle endlessly with the second respondent, they can release the vehicle by way of interim custody to the petitioner, against which the petitioner is ready and willing to abide by whatever conditions to be imposed by this Court.

5. Reiterating the aforesaid, the learned counsel appearing for the petitioner Mr.M.S.Jeyakarthik, seeks indulgence of this Court to issue a suitable direction.

6. Heard Mr.D.Ghandiraj, learned Government Advocate appearing for the respondents, who would submit that, for what reason he was plying the vehicle carrying 73 bottles of Military liquor has not been stated therefore, it might have been taken for commercial purposes and all these things would be revealed only after completing the investigation, and at the end of the investigation, charge sheet would be filed before the appropriate Magistrate Court, and for the said purpose, the vehicle is required to be produced, and if the vehicle is released, the petitioner may tamper the vehicle or third party right may be created, hence, the vehicle in question need not be directed to be released at this juncture, he contended.

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

8. 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 to be 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 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:

WEB COPY "The respondents are directed to consider the representation of the petitioner and the vehicle bearing Registration No. TN 72 BC 3999, 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 police 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 respondents."

9. With the above conditions, the vehicle in question shall be released to the petitioner as an interim custody within a period of one week from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar (CS III)

// 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 Deputy Commissioner of Police,
[Law and Order],
Tirunelveli City.



2.The Inspector of Police,
PEW – Tirunelveli City,
Tirunelveli City.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-28408[F] dated
07/09/2021)

+1 CC to M/s.The Special Government Pleader (SR-28505[F] dated
08/09/2021)

**W.P. (MD) No.16039 of 2021
07.09.2021**

RS (13.09.2021) 4P 5C