



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.10.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.18168 of 2021

Eswaran

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Kulithalai,
Karur District.

2.The Addl-Superintendent of Police,
Prohibiting Wing,
Karur District.

3.The Inspector of Police,
Kulithalai Police Station,
Karur District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to release the petitioner's HERO SPLENDER vehicle bearing registration No.TN-47- BW-1292, Engine No.HA11EVLHC09527, Chassis No. MBLHAW111LHC15857, seized by the third respondent police by considering the petitioner's representation, dated 04.09.2021.

For Petitioner
For Respondents

: Mr.M.Karunanithi
: Mr.D.Ghandiraj
Government Advocate

ORDER

Prayer sought for herein is for a Writ of Mandamus, directing the respondents to release petitioner's HERO SPLENDER vehicle bearing registration No.TN-47-BW-1292, Engine No.HA11EVLHC09527, Chassis No. MBLHAW111LHC15857, seized by the third respondent police by considering the petitioner's representation, dated 04.09.2021.

2.The petitioners vehicle HERO SPLENDER with Registration No.TN-47-BW-1292 was seized by the respondent police in connection with the Crime No.749/2021 on the file of the respondent police for the alleged offence punishable under Section 4 (1) (a) read with (1-A) of the Tamil Nadu Prohibition Act.



3. Though a show cause notice has been issued by the respondent on 26.08.2021, as to why the vehicle in question shall not be confiscated, the petitioner has given a reply to the show cause notice by way of representation on 04.09.2021. However, based on which, the vehicle in question has not so far been released by way of interim custody as sought for by the petitioner, therefore, he approached this Court with the aforesaid prayer.

4. Heard Mr.D.Ghandiraj, learned Government Advocate appearing for the respondents, who, on instruction would submit that, insofar as the petitioner is concerned, there is no previous case registered against the petitioner in respect of similar offences and the investigation is still pending. Therefore, the vehicle in question cannot be released by way of interim custody as the petitioner may tamper the vehicle and a third party right may be created and thus, it will be difficult for the investigating agency to complete the investigation and produce the same before the concerned Magistrate Court at the time of filing charge sheet, therefore, the learned Government Advocate is opposing the prayer sought herein.

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

6. Insofar as the vehicle in question is concerned, it is a two wheeler and the same having been seized and has been kept at the custody of the respondent police, by thus, it is exposed to sunlight and rain, because of which, there may be every chances that the vehicle in question and its value may get diminished and it may be also vulnerable that the spare-parts of the vehicle may be tampered by any third party, therefore, at this juncture, if the vehicle is given by way of interim custody with stringent conditions, no prejudice may be caused to the respondent police and in similar circumstances, number of such orders since passed by this Court.

7. When this kind of cases taken up for hearing, this Court has taken a consistent view that as an interim custody, the vehicle can be released with certain stringent conditions and one of the said case came up before me in W.P(MD).No.13295 of 2021, dated 23.09.2021, where I have passed the following order:

"6. Admittedly, the investigation is still pending, therefore, the vehicle is in the custody of the third respondent. No doubt, certainly, it will be exposed to sunlight and rain, by thus, the value of the vehicle would definitely get diminished, if it is continued to be stationed in the open ground, instead, if the vehicle is given by way of interim custody, no prejudice would be caused to the



respondents, provided, if stringent conditions are imposed to ensure that the petitioner shall not tamper the vehicle or create any third party right.

7. In this view of the matter, this Court is inclined to pass the following order:

"The respondents are directed to consider the representation of the petitioner and the vehicle bearing Registration No. TN-79-B-8853, 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."

8. 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.

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

8. In view of the afore-stated order and this writ petition also since has been similarly placed, therefore, in the present case also, the petitioner would be entitled to get the same order, accordingly, this writ petition is disposed of with the following order:

"The respondents are directed to consider the representation of the petitioner and the vehicle bearing Registration No. TN-47-BW-1292, 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, this writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CRL)

WEB COPY

// 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 Revenue Divisional Officer,
Kulithalai,
Karur District.

2. The Addl-Superintendent of Police,
Prohibiting Wing,
Karur District.

3. The Inspector of Police,
Kulithalai Police Station,
Karur District.

+1 CC to M/s.M.KARUNANITHI, Advocate (SR-32173[F] dated 21/10/2021)

+1 CC to M/s.SPL.GP (SR-32081[F] dated 21/10/2021)

W.P. (MD) No.18168 of 2021
20.10.2021

SMV(CO)
KB(22.10.2021) 4P 6C