



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.18461 of 2021

S.Murugan

.. Petitioner

Vs.

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

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

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to release petitioner's two wheeler "TVS XL 100 HEAVY DUTY" bearing registration No. TN-65-BZ-7246, by considering the petitioner's representation, dated 01.10.2021 within a time stipulated by this Court.

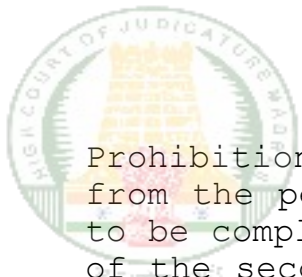
For Petitioner : Mr.V.Manikandan

For Respondents : Mr.D.Ghandiraj
Government Advocate

ORDER

Prayer sought for herein is for a Writ of Mandamus, directing the respondents to release petitioner's two wheeler "TVS XL 100 HEAVY DUTY" bearing registration No. TN-65-BZ-7246, by considering the petitioner's representation, dated 01.10.2021 within a time stipulated by this Court.

2.The petitioner is the owner of a two wheeler, that is, "TVS XL 100 HEAVY DUTY" bearing Registration No.TN-65-BZ-7246. The said vehicle was seized by the respondent police in connection with a criminal case registered in Crime No.187/2021, on the file of the second respondent, against the petitioner, for the alleged offences punishable under Sections 4(1)(a) and 4(1)(i) of the Tamilnadu



Prohibition Act dated 30.04.2021. Though the said vehicle was seized from the petitioner on 30.04.2021, so far, the investigation is yet to be completed, the vehicle in question has been stationed in front of the second respondent police station, by thus, it is exposed to sunlight and rain. With the result, the value of the vehicle is getting diminished day-by-day and it is also vulnerable that the spare-parts of the vehicle shall be tampered by any third party and also this is the only vehicle, which can be used for all domestic purposes of the petitioner, therefore, in order to get back the vehicle by way of interim custody, the petitioner has given a representation to the respondent on 01.07.2021, that was also, since not considered, the petitioner has approached this Court by filing the present Writ Petition.

3.Heard Mr.V.Manikandan, learned counsel appearing for the petitioner, who has reiterated the afore-stated and seeks indulgence of this Court to issue the direction to the respondents to give the vehicle in question by way of interim custody to the petitioner, as against which, whatever the condition imposed by this Court, the petitioner would abide by the same.

4.Heard Mr.D.Ghandiraj, learned Government Advocate appearing for the respondents, who, on instructions, would submit that there is no previous case filed or pending against the petitioner, however, since the investigation is yet to be completed, if the vehicle in question is released by way of interim custody to the petitioner, he may tamper the vehicle and sell or create any third party right, 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.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 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."

7. 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-65-BZ-7246, 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.

Sd/-

Assistant Registrar (AD II)

// 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 Additional Superintendent of Police,
Headquarters (Incharge),
Enforcement of Prohibition Wing,
Ramanathapuram District.
2. The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram.

+1 CC to M/s.SPL.GP (SR-31991[F] dated 12/10/2021)

W.P. (MD) No.18461 of 2021

08.10.2021

MGJ(20.10.2021) 4P 4C