



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.18670 of 2021

Kannadhasan

... Petitioner

Vs.

- 1.The Superintendent of Police,
Dindigul District,
Dindigul.
- 2.The Revenue Divisional Officer,
Palani,
Dindigul District.
- 3.The Inspector of Police,
Gujiliyamparai Police Station,
Dindigul District.
- 4.The Inspector of Police,
PEW, Dindigul,
Dindigul District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to release the vehicle to the petitioner bearing Registration No. TN 45 BS 3642 (TATA Motors Goods Carrier-Mini Lorry) seized by the third respondent on 10.06.2021 based upon the representation of the petitioner, dated 01.10.2021.

For Petitioner : Mr.S.Gokulraj
For Respondents : Mr.D.Ghandiraj
Government Advocate

ORDER

Prayer sought for herein is for a Writ of Mandamus, directing the respondents 1 to 4 to release the vehicle to the petitioner bearing Registration No. TN 45 BS 3642 (TATA Motors Goods Carrier - Mini Lorry) seized by the third respondent on 10.06.2021 based upon the representation of the petitioner, dated 01.10.2021.

2.The petitioner's vehicle, that is, the lorry with Registration No.TN 45 BS 3642 was intercepted and seized by the respondent police for an alleged offence punishable under the provisions of the Tamil Nadu Prohibition Act, where a case has been registered in Crime No. 499 of 2021 by the respondent police on 10.06.2021.



3.Since then the vehicle in question, since was seized by the respondent police, has been kept at the custody of the respondent police ofcourse exposed to the sunlight and rain and for all these months, since the vehicle has been stationed in the open ground, the value of the vehicle is getting diminished every day. Therefore, in order to get the vehicle by way of interim custody, the petitioner has already approached the respondent by giving a representation on 01.10.2021, and since the same has not been considered, the petitioner has filed the present writ petition.

4.Heard Mr.D.Ghandiraj, learned Government Advocate for the respondents, who, on instructions would submit that, there is no previous case pending against the petitioner, who is the owner of the vehicle in respect of any such crime, especially, under the Tamil Nadu Prohibition Act.

5.Similar issues have come up, almost everyday, before this Court where, if at all the vehicle in question is seized by the respondent police, during investigation and pending investigation, if any application for interim custody of the vehicle is filed, the same can be considered and decided by the respondent police and in such case, if the vehicle is required for immediate production before the concerned Magistrate Court at the time of filing charge sheet, the vehicle may be required and therefore, on condition that without tampering the same, if the vehicle is given to the interim custody to the owner of the vehicle, no prejudice would be caused to the respondent police.

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 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."

7.In view of the afore-stated order and this writ petitioner also since has been similarly placed, therefore, in the present case also, the petitioner would be entitled to get the similar 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-45-BS-3642, 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 (CRL)

WEB COPY

// 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 Superintendent of Police,
Dindigul District,
Dindigul.
2. The Revenue Divisional Officer,
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3. The Inspector of Police,
Gujiliyamparai Police Station,
Dindigul District.
4. The Inspector of Police,
PEW, Dindigul,
Dindigul District.

+1 CC to M/s.S.GOKUL RAJ, Advocate (SR-32123[F] dated 21/10/2021)

+1 CC to M/s.SPL.GP (SR-32083[F] dated 21/10/2021)

**W.P. (MD) No.18670 of 2021
20.10.2021**

SMV (CO) /RS (22.10.2021) 4P 7C