



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2021

WEB COPY

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.18900 of 2021

Palanikumar

.. Petitioner

Vs.

1.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram,
Ramanathapuram District.

2.The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to release petitioner's vehicle bearing Registration No.TN 65 AC 4957, which was seized by the second respondent on 01.10.2021 in pursuance to the registration of Crime No.759 of 2021, on the file of the second respondent forthwith in accordance with law by considering the petitioner's representation, dated 12.10.2021.

For Petitioner

: Mr.C.Senthil Murugan

For Respondents

: Mr.D.Ghandiraj
Government Advocate

ORDER

Prayer sought for herein is for a Writ of Mandamus, to direct the respondents to release petitioner's vehicle bearing Registration No.TN 65 AC 4957, which was seized by the second respondent on 01.10.2021 in pursuance to the registration of Crime No.759 of 2021, on the file of the second respondent forthwith in accordance with law by considering the petitioner's representation, dated 12.10.2021.



2.The petitioner is the owner of the vehicle, namely, TATA BOLT with Registration No.TN 65 AC 4957. On 01.10.2021, the said vehicle was intercepted and seized by the second respondent police on the alleged reason that the vehicle was involved in transporting the illicit liquor bottles and therefore, a case has been registered in Crime No.759/2021 on the file of the second respondent police for the alleged offence punishable under Section 4(1)(a) of the Tamilnadu Prohibition Act, with the result, the vehicle of the petitioner, seized by the second respondent, has been kept at the custody of the second respondent from 01.10.2021.

3.In this regard, in order to release the vehicle by way of interim custody, the petitioner has given a representation on 12.10.2021, on the ground that, if the vehicle is continuously kept at open ground at the custody of the second respondent, it will get exposed to sunlight and rain, by thus, the value of the vehicle would get diminished.

4.Reiterating the aforesaid, the learned counsel seeks indulgence of this Court to consider the representation of the petitioner and to release the vehicle by way of interim custody by imposing any stringent conditions, by which, he would abide by.

5. Heard Mr.D.Ghandiraj, learned Government Advocate appearing for the respondents, who, on instructions would submit that, 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, if released by way of interim custody, there will be a chance of tampering the vehicle or create any third party right and in that case, it will be difficult for the second respondent police to complete the investigation and produce the vehicle before the concerned Magistrate Court at the time of filing Charge Sheet, therefore, the learned Government Advocate is opposing the prayer sought herein.

6.I have considered the said rival submissions made by both the parties and have perused the material placed before this Court.

7.The vehicle in question having been seized 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 were passed by this Court.



8. 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."

9. In view of the afore said order, which is being followed consistently in all cases of this nature, this Court feel that a similar order can be passed, 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 AC 4957, 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."

10.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.

11.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 Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram,Ramanathapuram District.

2.The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.

+1 CC to M/s.SPL.GP (SR-32357[F] dated 25/10/2021)

W.P. (MD) No.18900 of 2021
22.10.2021

MGJ(26.10.2021) 4P 4C