



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.10.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.19325 of 2021

K.Kavidoss

.. Petitioner

Vs.

1.The Additional Superintendent of Police,
(Prohibition and Enforcement Wing),
Tenkasi.
Tenkasi District.

2.The Inspector of Police,
Puliyangudi Police Station,
Tenkasi District.
(In Crime No.339/2021)

.. 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 vehicle, namely, PASSION BRO bearing Registration No. TN-37-DX-2619 Engine No.HA10ACJHH41348, Chassis No.MBLHAR180JHH10157, seized by the second respondent police by considering the petitioner's representation, dated 19.07.2021 within a time stipulated by this Court.

For Petitioner : Mr.C.Susikumar

For Respondents : Mr.D.Ghandiraj
Government Advocate

ORDER

Prayer sought for herein is for a Writ of Mandamus, directing the respondents to release the petitioner's vehicle, namely, PASSION BRO bearing Registration No.TN-37-DX-2619, Engine No.HA10ACJHH 41348, Chassis No.MBLHAR180JHH10157, seized by the second respondent police, by considering the petitioner's representation, dated 19.07.2021, within a time stipulated by this Court.

2.That the petitioner is the owner of the vehicle two wheeler PASSION BRO, bearing Registration No.TN-37-DX-2619 and the same was seized by the respondent police on 03.07.2021 in connection with the



case registered at the respondent police station in Crime No.339 of 2021, dated 03.07.2021, for the alleged offence punishable under Sections 4(1) (a) and 14(A) of the Tamilnadu Prohibition Act.

3.After seizing the vehicle, the vehicle has been kept in the custody of the respondent police, by thus, the vehicle is exposed to sunlight and rain.

4.Therefore, in order to get the vehicle by way of interim custody, the petitioner has given a representation on 19.07.2021, however, the same has not been considered so far, hence, the petitioner has moved the present writ petition.

5.Heard Mr.D.Ghandiraj, learned Government Advocate appearing for the respondents, who on instructions, would submit that there is no previous case pending against the petitioner, however, insofar as the present case is concerned, investigation is still pending. Therefore, at this juncture, if the vehicle in question is released by way of interim custody to the petitioner, there are chances of exploiting the vehicle by creating third party right by the petitioner and in that case, it will be a difficult task for the respondent police to produce the said vehicle to the concerned Magistrate Court at the time of filing charge sheet, therefore, the learned Government Advocate opposes the prayer sought for herein.

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

7.Admittedly, the investigation is still pending and the vehicle in question has been in the custody of the respondent police from July 2021. Therefore as pointed out by the learned counsel appearing for the petitioner, there are chances that the vehicle's value would get diminished, if it is exposed to sunlight and rain continuously for months together. Therefore, at this juncture, with stringent conditions, if the vehicle in question will be released by way of interim custody to the petitioner, no prejudice would be caused to the respondent police and moreover, when this kind of cases coming up for hearing, this Court has taken a consistent stand, where, the following orders have been passed in W.P.(MD)No. No.13295 of 2021, dated 23.09.2021:

"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 above, since the present case also is similarly placed, this Court is inclined to dispose of this writ petition with the following order:

"The respondents are directed to consider the representation of the petitioner and the vehicle, bearing Registration No. TN-37-DX-2619, 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 (CS I)

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 Additional Superintendent of Police,
(Prohibition and Enforcement Wing),
Tenkasi.
Tenkasi District.

2. The Inspector of Police,
Puliyangudi Police Station,
Tenkasi District.

+1 CC to M/s.SPL.GP (SR-33177[F] dated 29/10/2021)

W.P. (MD) No.19325 of 2021

28.10.2021

MGJ/JC (01.11.2021) 4P 4C