



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.11.2021**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.19400 of 2021

Alagu @ Alagumurugan

...Petitioner

Vs.

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

2.The Inspector of Police,
Prohibition Enforcement Wing,
Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to release petitioner's Motor Cycle Royal Enfield Model bearing Registration No.TN-57-BF-8182 to the petitioner.

For Petitioner : Mr.M.Murugan
For Respondents : Mr.D.Ghandiraj
Government Advocate

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondents to release petitioner's Motor Cycle Royal Enfield Model bearing Registration No.TN-57-BF-8182 to the petitioner.

2.The case of the petitioner is that the petitioner is the owner of the Two-Wheeler with registration No.TN-57-BF-8182 and the same was intercepted and seized by the respondent police on 10.08.2021 at 11.30 a.m., on the alleged reason that the petitioner was carrying or transporting 750 ml foreign liquor bottles ten in numbers. Pursuant to which, a case has been registered at the respondent police, ie., PEW, Dindigul in FIR No.910 of 2021, result of which, the vehicle in question of the petitioner has been seized and has been kept at the custody of the respondent police sofar.

3.In this context, the petitioner has given a representation to the respondent on 01.10.2021 to release the vehicle in question to the petitioner by way of interim custody, as the value of the



vehicle would get diminished, if it is continued to be under the custody of the respondents by exposing it to sunlight and rain. Since the same has not been considered by the respondents, the petitioner has approached this Court by filing the present writ petition.

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4. Heard Mr.M.Murugan, learned counsel appearing for the petitioner, who having reiterated the same, would submit that the directions can be given to the respondents to release the vehicle in question to the petitioner as an interim custody.

5. However, Mr.D.Ghandiraj, learned Government Advocate appearing for the respondents, on instructions would submit that, the petitioner is a habitual offender of involving such kind of crime, as there has been two previous cases filed against him or pending before the respondent police ie., one is Crime No.833 of 2015 and another one is Crime No.503 of 2021. The present case is the third one and therefore, since he being a habitual offender, if the vehicle in question is given to him by way of an interim custody, he will again involve in the same crime. Therefore, in order to prevent the same, the vehicle in question has to be kept under the custody of the respondent police and after adjudication, whether the vehicle in question has to be confiscated or not can be decided by the authorities concerned in accordance with law. Therefore, the learned Government Advocate opposes the release of vehicle by way of an interim custody.

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

7. This Court has taken consistent stand that if at all the vehicle, whether the two wheeler or four wheeler of any individual, which is seized for the alleged offence punishable under the provisions of the Tamil Nadu Prohibition Act, pursuant to which, the vehicle is put under the custody of the concerned police and continuously if the vehicle is exposed to sunlight and rain, the value of the vehicle would get diminished and it may be vulnerable for stealing the spare parts of the vehicle concerned. Therefore, in such kind of cases, orders were passed to release the vehicles to the owner by way of interim custody provided if the vehicle has never been involved in any such kind of crime earlier or the person, who is the owner of the vehicle has not involved in any previous case of similar crime. However, if any one has already involved in any similar crime, where cases have been pending, this Court also has taken a consistent view that the plea of such persons cannot be considered for releasing of the vehicle by way of interim custody and in those cases, we left the matter to the decision of the respondents even to the extent of confiscating the vehicle in accordance with law.



8.In that view of the consistent stand taken by this Court, since this is also a case, where the petitioner has already involved in similar crime, where two cases are pending against him, if the vehicle in question is released by way of an interim custody, there may be every chance that the petitioner may involve the same vehicle for the similar crime. Therefore, the justice demands that these kind of vehicles can be dealt with in accordance with law, including confiscation of the vehicles and therefore, this Court does not want to interfere with the same by issuance of any direction to that effect.

9.In that view of the matter, this Writ Petition fails. Hence, it is liable to be rejected. Accordingly, it is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gbg/sm

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,
Dindigul District.
- 2.The Inspector of Police,
Prohibition Enforcement Wing,
Dindigul District.
3. The Additional Public Prosecutore,
Madurai Bench of Madras High Court, Madurai.

W.P. (MD)No.19400 of 2021

01.11.2021

RD(17.12.2021) 3P 4C