



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.64 of 2022

Suresh

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Nagarasampatty Police Station,
Krishnagiri District.

... Respondent

PRAYER: The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to call for the records on the file of the learned District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District in Crl.M.P.No.1679 of 2021 dated 28.12.2021 and set aside the order.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.S.Sugendran
Government Advocate [Crl. Side]

ORDER

(The case has been heard through Video Conferencing)

This Criminal Revision Petition has been filed against the dismissal of the petition seeking for return of property.

2. Learned counsel for the petitioner would submit that the petitioner is the owner of Hero Honda Unicorn Two Wheeler bearing Registration No.TN-24-AT-9624, the vehicle was seized by the respondent in connection with Crime No.314 of 2021 and registered a case for the offence under sections 4(1)(a), 4(1-A) of TNP Act. He would further submit that the respondent has not produced the vehicle before the Court so far, the petitioner had filed the application under Sections 457 and 451 of Cr.P.C seeking return of vehicle and the learned Trial Judge by an impugned order had dismissed the petition stating that the property is not produced before the Court and the property is subjected to confiscation proceeding under Prohibition Enforced Wing 14(4) of 1937 & G.O.Ms.No.39/ Prohibition and Excise (V)



Department. Learned counsel for the petitioner would submit that the vehicle is parked in the open area exposed to vagaries of weather and thereby the value of the vehicle is diminishing day by day. He would further submit that till date, no summons or show cause notice is served on the petitioner for confiscation. He would further submit that the petitioner undertakes that he will not dispose the vehicle and that the petitioner is prepared to produce the vehicle before the authorities or before the Court as and when required by them and thereby would seek to set aside the impugned order and direct the release of the vehicle.

3. Mr.S.Sugendran, learned Government Advocate(Crl.Side) appearing for the respondent would submit that the petitioner was found in possession of 50 pocket of Honey Day Brandy 2 Bottle and Black Pearl Brandy 48 pockets on 01.11.2021. The respondent registered a case for the offence under section 4(1) (a), 4(1-A) of TNP Act. He would further submit that the respondents are taking steps for initiating proceedings for confiscation and till date, show cause notice has not been served on the petitioner.

4. Taking into consideration of the fact that the petitioner was found in possession of 50 pocket of Honey Day Brandy 2 Bottle and Black Pearl Brandy 48 pockets and that till date, no show cause notice has been issued on the petitioner, this Court is of the opinion that the interim custody of the vehicle can be granted to the petitioner.

5. In view of the above, the order dated 28.12.2021 in Crl.M.P.No.1679 of 2021 stands set aside and the Criminal Revision Petition stands allowed and the interim custody of the vehicle is directed to be handed over to the petitioner subject to the following conditions:

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District, and on further conditions that:

ii) The petitioner shall produce the Original RC Book of the vehicle in question before the Trial Court and file an affidavit of undertaking that he will not dispose or alter the physical features of the vehicle and that he will produce the vehicle before the Trial Court as and when required by the Trial Court or the Investigating Agency.

iii) The RC book of the vehicle shall be retained by the Trial Court till the disposal of the trial or until further orders from this Court.



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(iv) The petitioner shall participate in the confiscation proceedings, if any initiated, and shall produce the vehicle, before the confiscation authority. This order is subjected to the confiscation proceedings.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

vri/shk

To

1. District Munsif cum Judicial Magistrate,
Pochampalli, Krishnagiri District.
2. The Inspector of Police,
Nagarasampatty Police Station,
Krishnagiri District.
3. The Public Prosecutor,
Madras High Court.

+1cc to Mr.E.Kannadasan, Advocate, S.R.No.5403

Cr1.R.C.No.64 of 2022

SSD (CO)
SB(10/02/2022)