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W.P No.24923 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

W.P No.24923 of 2021  
and  
W.M.P No.26238 of 2021

G.Shankar

... Petitioner

Vs.

1. The State represented by its  
Deputy Superintendent of Police  
Prohibition Wing  
Erode District.

2. The Sub Inspector of Police  
Karungalpalayam Police Station  
Karungalpalayam Village  
Erode District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order of the 1st respondent in Na.Ka.No.521/Thu. Ka. Ma.Vi/ E /2021 dated 14.07.2021 and to quash the same and consequently direct the respondent to release the petitioner's vehicle bearing No.TN 31 BQ 8485 Hyndai Car.



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For Petitioner : Mr.P.Paramasiva Doss

For Respondents : Mr.A.Damodaran  
Additional Public Prosecutor

### **ORDER**

This Writ Petition has been preferred, to issue a Writ of Mandamus to call for the records of the impugned order of the 1st respondent in Na.Ka.No.521/Thu. Ka. Ma.Vi/E/2021 dated 14.07.2021 and quash the same and consequently, direct the respondent to release the petitioner's vehicle bearing No.TN 31 BQ 8485 Hyndai Car.

2. In pursuance of the criminal case registered by the 2nd respondent in Crime No.275 of 2021, it is alleged by the 2nd respondent that one Aravind had driven the petitioner's car from Bangalore to Tamil Nadu via Karungalpalayam; when the police party checked the vehicle, it was found that the vehicle had prohibited items; on that score, a case has been registered in Crime No.275 of 2021 under Section 4(1) (a) of Tamilnadu Prohibition Act, 1971; consequent to that, confiscation proceedings have



been initiated by the 1st respondent in the impugned proceedings.

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**3.** Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

**4.** The learned counsel for the petitioner submitted that the since the petitioner is not involved in the offence and he also did not have any knowledge about the transportation of the liquor as alleged, no confiscation proceedings can be initiated against his vehicle.

**5.** Earlier, the petition filed by the petitioner before the jurisdictional Court to return the vehicle has also been dismissed in view of Section 14(4) of Tamil Nadu Prohibition Act and thereafter, the petitioner has filed this writ petition.

**6.** When the matter was taken up today, the learned Additional Public Prosecutor on instructions submitted that the confiscation proceedings has already been completed and the rightful remedy for the petitioner is to file an appeal before the Court of Sessions within one month from the date of



receipt of a copy of the order and not by way of filing any writ petition.

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7. The proceedings dated 24.08.2021, completing the confiscation is also produced to show the same. It is seen that a copy of the said proceedings has also been served on the petitioner. However, the learned counsel for the petitioner submitted that if a copy is served on the petitioner, he would file an appeal before the Court of Sessions under Section 14(5) of the Tamil Nadu Prohibition Act. Since the order has been passed on 24.08.2021, one month time has been lapsed now. However, the learned counsel for the petitioner submitted that he would also file a petition to condone the delay.

8. Since the petitioner is at liberty to file an appropriate proceedings before the Principal Sessions Court and get appropriate orders, it is reliably learnt that the car has not been sold so far, in any public auction. Since the petitioner intends to file an appeal along with the petition to condone the delay, I feel it is appropriate for the respondents to stop the auction proceedings, if any until the completion of the appeal proceedings.



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9. With this observation, this Writ Petition stands disposed of and the petitioner is at liberty to file an appeal along with the petition to condone the delay and seek appropriate remedy. No costs. Consequently, connected Miscellaneous Petition is closed.

**27.10.2022**

Index : Yes/No  
Speaking Order : Yes / No  
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To

1. The Deputy Superintendent of Police  
Prohibition Wing  
Erode District.
2. The Sub Inspector of Police  
Karungalpalayam Police Station  
Karungalpalayam Village  
Erode District.
3. The Public Prosecutor  
High Court of Madras.



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**R.N.MANJULA, J.,**  
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