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Crl.R.C.No.1469 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1469 of 2022

Manonmani

... Petitioner

Versus

State Rep.by
Inspector of Police,
Magudanchavadi Police Station,
Salem District,
Crime No.228 of 2022.

... Respondent

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code to call for the records and set aside the order dated 19.09.2022 passed by the learned Judicial Magistrate No.II, Sankari in C.M.P.No.1486 of 2022 and to return the Mahindra Invader Jeep bearing Registration No.TN 34 AA 1155 to the custody of the petitioner.

For Petitioner : Mr.T.N.Rangesh Kanna

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed against the order dated 19.09.2022 passed in C.M.P.No.1486 of 2022 by the learned Judicial



Magistrate No.II, Sankari.

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2.It is the case of the petitioner that the respondent police registered a case in Crime No.228 of 2022 against her for the offence under Sections 4(1)(aa) of Tamil Nadu Prohibition Act, 1937 and seized the vehicle viz., Mahindra Invader Jeep bearing Registration No.TN 34 AA 1155. Subsequently, the petitioner filed a petition in C.M.P.No.1486 of 2022 before the learned Judicial Magistrate No.II, Sankari seeking interim custody of the said vehicle and the said petition was dismissed. Aggrieved over the same, the petitioner has preferred the present revision case.

3.The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle and she is no way connected with the alleged offence. Further, the vehicle in question is left idle in the open space thereby, the condition of the vehicle is getting deteriorated and the value of the vehicle is lost thereby, putting the petitioner to hardship and hence, he seeks interim custody of the vehicle and that she would abide by stringent conditions, if any, to be imposed on her.

4.The learned Additional Public Prosecutor appearing for the respondent



submitted that since the petitioner was alleged to have used the said vehicle for illegal transportation of liquor bottles, a case was registered against her under Prohibition Act. He further submitted that confiscation proceedings has been initiated and show cause notice has also been issued to the petitioner and hence, the vehicle in question cannot be released at this stage.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and also perused the materials available on record.

6. Admittedly, the vehicle in question was alleged to have involved in illegal transportation of 240 bottles of liquor and in the case on hand investigation is pending and charge sheet has not yet been filed. Further confiscation proceedings has been initiated and show cause notice has also been served to the petitioner. Pending investigation, return of the vehicle is purely discretionary power of the Court. Therefore, the learned Magistrate by exercising the discretionary jurisdiction has dismissed the petition filed by the petitioner. Unless there is arbitrariness or *mala fides* in the order of the learned Magistrate, the revision Court will not interfere it. During the investigation



Crl.R.C.No.1469 of 2022

release of vehicle is not a matter of right.

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7. In the case on hand, the vehicle was seized for illegal transportation of the liquor bottles and the case was registered under Prohibition Act. In the prohibition cases, the vehicles which are carrying prohibited goods are liable to be confiscated. It is noticed that confiscation proceedings has been initiated and show cause notice has also been served on the petitioner and hence, this Court, while exercising the revisional jurisdiction cannot conduct roving enquiry at this stage and also this Court does not find any arbitrariness and *mala fides* in the order passed by the learned Magistrate.

8. In view of the above, this Court does not find any perversity or infirmity in the order passed by the Court below. Accordingly, this Criminal Revision case is dismissed.

07.11.2022

Index : Yes/No
Speaking Order/Non Speaking Order
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Crl.R.C.No.1469 of 2022

To

1. The Judicial Magistrate No.II,
Sankari.
- 2.The Public Prosecutor,
High Court, Madras.
- 3.The Inspector of Police,
Magudanchavadi Police Station,
Salem District.



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Crl.R.C.No.1469 of 2022

P.VELMURUGAN, J.

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