



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.05.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.10296 of 2022

Ilankamanidurai

... Petitioner

vs.

1.The Superintendent of Police,
Tenkasi District.

2.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Tenkasi District.

3.The Inspector of Police,
Vasudevanallur Police Station,
Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to release the petitioner's Two Wheeler vehicle bearing Registration No.TN 79 D 3178 which was seized by the third respondent on 14.04.2022 in pursuance to the registration of case in Crime No.127 of 2022, on the file of the third respondent forthwith in accordance with law by considering the representation dated 10.05.2022.

For Petitioner : Mr.C.Senthil Murugan

For Respondents : Mr.G.Suriyananth
Additional Government Pleader

O R D E R

This writ petition has been filed for directing respondents to release the petitioner's Two Wheeler vehicle bearing Registration No.TN 79 D 3178 which was seized by the third respondent on 14.04.2022 in pursuance to the registration of case in Crime No. 127 of 2022 on the file of the third respondent, forthwith in accordance with law by considering the representation dated 10.05.2022.



2. Mr.C.Senthil Murugan, learned counsel for the writ petitioner is before this Court. Mr.G.Suriyananth, learned Additional Government Pleader accepts notice on behalf of all the three respondents.

WEB COPY

3. With the consent of both sides, the main writ petition is taken up and heard out.

4. In a similar case another Hon'ble Single Judge has ordered release of the seized vehicle on certain terms which was seized for the alleged violation of Sections 4(1)(a) of the Tamil Nadu Prohibition Act, 1937. This Court vide order dated 09.07.2020 in W.P.(MD)No.2679 of 2020 (Sathiah v. The State of Tamil Nadu and Others) and also placed reliance on the order dated 06.06.2019 made in CrI.O.P.No.11945 of 2019. In the said orders the vehicle was released on terms.

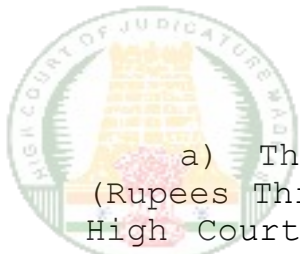
5. The respondents relied on G.O.Ms.No.39 Home, Prohibition and Excise (VIII) Department dated 22.10.2019, to sustain the contention that the second respondent can very well auction the vehicle in question. But the said Government order will come into play after the confiscation is done under Section 14 of Tamil Nadu Prohibition Act 1937. In this case, there is nothing on record to show the fulfillment of formalities set out in Section 14(4) of the Tamil Nadu Prohibition Act. Therefore, the question of auctioning the vehicle even without formal confiscation does not arise at all. Also, it does not mean that the vehicle involved in criminal case should not be produced before the Jurisdictional Court. In fact, the provisions of Criminal Procedure Code envisage that the seized vehicle should be produced before the Jurisdictional Court and the party concerned can avail the right to claim the vehicle by way of interim or final custody.

6. The conditions imposed and the release of the vehicle post compliance of the conditions have been set out by the Hon'ble Single Judge in paragraph Nos.5, 6 & 7.

7. Therefore, there shall be a similar order in this matter. The order is as follows:

7.1. I make it clear that it is very much open to the respondents herein to initiate and conclude the confiscation proceedings. The only relief that I am granting is interim custody of the vehicle. I have not gone into the merits of the matter.

7.2. Therefore, the respondents are directed to release the said vehicle subject to the following conditions:



a) The petitioner is directed to pay a sum of **Rs.3,000/-** (Rupees Three Thousand only) to the credit of the Officer-in-Charge, High Court Legal Services Committee, Madurai Bench of Madras High Court, Madurai, S.B.A/c.No.496037387, IFSC : IDIB000H040, Indian Bank, High Court Branch, Madurai. It will be a non-refundable payment. The Registrar (Judicial) is directed to spend the amount for appropriate welfare activities such as feeding the disadvantaged communities in Madurai District;

b) The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed;

c) The petitioner shall produce all documents pertaining to ownership of the seized vehicle; and

d) when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.

8. Upon completion of these formalities, the respondents shall release the vehicle forthwith without any delay. If aforementioned undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future.

9. This Writ Petition is disposed of in aforesaid manner i.e., with aforementioned directive without any order as to costs.

Sd/-

Vacation Officer

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 Superintendent of Police,
Tenkasi District.

2.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Tenkasi District.

3.The Inspector of Police,
Vasudevanallur Police Station,
Tenkasi District.

4 The Officer Incharge,
High Court Legal Services Committee,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.SPL.GP (SR-23933[F] dated 20/05/2022)

W.P. (MD) .No.10296 of 2022
20.05.2022

MK/27.05.2022/4P/6C