



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.07.2022

CORAM:

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

W.P.(MD)No.14024 of 2022

Kanagaraj

.. 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
Chokkampatti Police Station,
Tenkasi District

..Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to release the petitioner Two Wheeler Vehicle bearing Reg.No.TN 79 C 7642 which was seized by the 3rd respondent on 15.05.2022 in pursuance to the registration of case in Crime No.125 of 2022 , on the file of the 3rd respondent forthwith in accordance with law by considering the representation dated 24.06.2022



For Petitioner : Mr.C.Senthil Murugan
For Respondents : Mr.C.Satheesh
Government Advocate

ORDER

This writ petition has been filed to direct the respondents to release the petitioner's two Wheeler bearing Reg.No.TN 79 C 7642 which was seized by the 3rd respondent on 15.05.2022 in pursuance to the registration of case in Crime No.125 of 2022 , on the file of the 3rd respondent forthwith.

2. The petitioner has submitted a representation on 20.05.2022 in person thereafter followed with another representation dated 24.06.2022 by post. The contention of the petitioner is that his two wheeler bearing Reg. No. TN79 C 7642 was seized by the third respondent in Crime No. 125 of 2022 for the offence under Section 4(1)(a) of TNPAAct.

3. The gist of the allegation against the petitioner is that on 15.05.2022 when the third respondent was conducting vehicle check up they saw the petitioner coming in his to wheeler, he was stopped and his



vehicle was searched, at that time it was alleged that 24 nos of honey day quarter bottle each containing 180 ml was found in his bag , thereafter the said bottles along with the vehicle was seized and the petitioner was arrested and remanded to judicial custody.

4. It is his further submission that the petitioner is a daily wager and for his work he uses his two wheeler and due to the seizure of the vehicle the petitioner is unable to attend his work and make his earning, thereby his family is suffering. He has also approached the learned Judicial Magistrate, Tenkasi, there also the vehicle so far not produced. The petitioner made several attempts for return of his two wheeler and the same was not considered, with no other option he has approached this Court by way of this petition.

5. The learend counsel appearing for the respondents would submit that the petitioner is a regular offender and involved in several prohibition act cases. The petitioner alredy involved in a case in Crime No. 49 of 2022 and the same was taken on file in STC No. 163 of 2022 and in that case the petitioner pleaded guilty and paid a fine of Rs.1000/-



on 12.03.2022. Despite the same he involved in this case on 15.05.2022,

He further submitted that confiscation proceedings has been contemplated in this case. He would further submit that the petitioner was released on station bail in this case by the Investigation Officer and no documents were sent to the Court. Now the investigation has been completed, charge sheet made ready listing 4 witnesses. L.W.1 is the Sub Inspector of Police, who conducted vehicle check , LW.2 and L.W 3 are the mahazhar witnesses, L.W.4 is the Investigating Officer and the case is not yet taken on file for the reason that the property not produced. He would also submit that if the vehicle is returned to the petitioner, he will indulge in similar type of offences again, hence he strongly opposed to return the vehicle to the petitioner.

6. Heard the learned counsel appearing for the petitioner and the learend counsel appearing for the respondents and perused the materials available on record.

7. It is not in dispute that the seized vehicle is not produced before the concerned jurisdictional magistrate, except for the communication



dated 15.05.2022 by the third respondent to the second respondent to initiate confiscation proceedings, there is no other material found.

8. Finding that the investigation is almost completed, charge sheet made ready and even filed before the learned Judicial Magistrate, Tenkasi not taken on file for the reason that the seized 24 quarter bottle s and two wheeler bearing Reg.No. TN 79 C7642 not produced. In this case there is no form 95 as on date.

9. In view of the same, this Court directs the third respondent to comply with the defects in the charge sheet and file the same before the learend Judicial Magistrate, Tenkasi who shall enterain the return of property petition if any filed by the petitioner either under Section 451 of Cr.P.C or Section 451r/w.457 of Cr.Pc. In this case no confiscation proceedings has been initiated by the second respondent.

10. It is also made clear that the pendency of confiscation proceedings will not deny the right of filing a petition for return of property and get the same. The only condition is that the vehicle can be handed over to the petitioner if he is otherwise eligible with a condition



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that is subjected to confiscation proceedings. Further the learned counsel for the petitioner is directed to file a petition for return of his vehicle bearing Reg. No. TN 79 C 7642 within a period of two weeks from the date of receipt of a copy of this order and on receipt of such application, the learned Magistrate, shall consider the same and pass orders on merits and accordance with law, without delay, preferably within two weeks from the date of presentation of the petition.

11. With the above direction, this Writ Petition stands disposed of.

No costs. Consequently connected miscellaneous petition is closed.

04.07.2022

Index: Yes/No

Internet : Yes/No

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Note: Issue order copy on 04.07.2022



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To

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Tenkasi District
2. The Deputy Superintendent of Police
Prohibition Enforcement Wing,
Tenkasi District
3. The Inspector of Police
Chokkampatti Police Station,
Tenkasi District



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M.NIRMAL KUMAR, J.

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