



WEB COPY



W.P.No.4595 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.4595 of 2023

and

W.M.P.No.4604 of 2023

Shri Eburamusa Sherif

.. Petitioner

vs.

1. The Principal Commissioner of Customs,
Airport & Air Cargo Complex,
New Custom House,
Meenambakkam, Chennai 600 027.

2. The Assistant Director,
Government of India,
Directorate of Revenue Intelligence,
27, G.N.Chetty Road, T.Nagar,
Chennai 600 027.

3. The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
27, G.N.Chetty Road, T.Nagar,
Chennai 600 027.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent made in F.No.DRI/C.ZU/VIII/48/ENQ-1/INT/52/2022 dated 20.01.2023 quash the same and direct return of the Maruti Suzuki



W.P.No.4595 of 2023

Vitara Brezza bearing Registration No.TN 04-AV-1374 and Indian Rupees of Rs.1,24 lakhs seized under Mahazar proceedings dated 26.11.2022 of the 3rd respondent.

For Petitioner : Mr.B.Sathish Sundar

For R1 : Ms.Anu Ganesan
Junior Panel Counsel

For R2 & R3 : Mr.V.Sundareswaran
Senior Panel Counsel

ORDER

This writ petition has been filed to quash the impugned order rejecting the request of the petitioner to return the car bearing No.TN 04-AV-1374 and cash Rs.1,24,000/- dated 26.11.2022 seized from the petitioner and two others.

2. It is the case of the petitioner that the petitioner has not been served with Mahazar although the car and cash were seized. It is submitted that the petitioner is willing to co-operate for further proceeding. It is submitted that no useful purpose will be served by retaining the car by the respondents as the car is prone to rusting and



W.P.No.4595 of 2023

depreciation if it is not motored/ operated and / or used. Learned counsel for the petitioner submits that the petitioner is willing to execute any bond or any other securities that may be required to release the car.

3. The learned Senior Panel Counsel for the second and third respondents on the other hand submits that this writ petition is premature in as much as the investigation is not complete. It is submitted that the car was used for smuggling gold imported by passengers. It is submitted that the petitioner had attempted to facilitate the commission of offence and therefore the subject car was seized and is liable to be confiscated under the provisions of the Customs Act, 1962.

4. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Junior Panel counsel for the first respondent and the learned Senior Panel counsel for the second and third respondents.

5. Having considered the submissions made by the learned counsel for both sides, Court is inclined to give partial relief to the petitioner by ordering release of the petitioner's car viz., Maruti Suzuki



W.P.No.4595 of 2023

Vitara Brezza bearing Registration No.TN 04-AV-1374 to the petitioner,

subject to the following conditions:-

- (i) the petitioner shall furnish a bank guarantee for a sum of Rs.1,00,000/- as security to the second respondent and renewed from time to time.
- (ii) a further security in the form of bond in favour of the second respondent shall be executed undertaking to pay fine and penalty that may be imposed on the petitioner after adjudication of the proceedings under the the Customs Act, 1962.
- (iii) the petitioner shall also give an undertaking to the second respondent to not to sell the car or encumber it without knowledge or intimation to the respondents.
- (iv) A charge to that effect shall be registered with the Regional Transport Office where the car is registered.
- (v) The petitioner shall maintain the car in good condition and renew the Insurance .

6. On compliance of the above conditions by the petitioner, the said car shall be provisionally released by the second respondent within



W.P.No.4595 of 2023

three days. The cash seized shall be released/or confiscated and /or appropriated towards penalty if only any after adjudication of the proposed proceedings.

7. This writ petition stands disposed of with the above observations. Consequently, connected miscellaneous petition is closed.
No costs.

18.07.2023

Index : Yes / No
Internet : Yes / No
Speaking : Non Speaking Order
kkd

To

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W.P.No.4595 of 2023

C.SARAVANAN, J.

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W.P.No.4595 of 2023

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