



W.P.(MD)No.17739 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.17739 of 2023

Mohamed Ismail

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.

2. The Inspector of Police,
Thiruppullani Police Station,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Mandamus*, directing the respondent to release the petitioner's two wheeler vehicle in bearing Registration No.TN 65 AS 6672 within stipulated time to be fixed by this Court, by considering the petitioner's representation, dated 05.07.2023.

For Petitioner : Mr.B.Mahendrarajan

For Respondents : Mr.K.Sanjai Gandhi (Crl. side)
Government Advocate



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ORDER

The petitioner, who is the owner of two wheeler vehicle bearing Registration No.TN 65 AS 6672, has filed this petition seeking direction directing the respondents to release the petitioner's vehicle.

2. The 2nd respondent seized the vehicle in Crime No.71 of 2023 finding that on 08.04.2023, the petitioner's vehicle was involved in offences under Sections 4 (1) (a) of the Tamil Nadu Prohibition Act. The complaint is that when the 2nd respondent along with his team was keeping surveillance watch over the prohibition offenders, at that time, he was involved in illegal Transportation of liquors by using the petitioner's two wheeler vehicle bearing Registration No.TN 65 AS 6672. Finding that the vehicle was involved in prohibition offence, the vehicle was seized later and produced in the police station.

3. The contention of the petitioner is that the seized vehicle of the petitioner is now kept in open, in the police station exposing to vagaries of weather, and the vehicle is kept idle. The value of the vehicle is diminished and continuing to keep the vehicle in open would make the vehicle unusable. The



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respondent police not followed the instructions contemplated in ***G.O.Ms.No.39, (Home), Prohibition and Excise (VII) Department, dated 22.10.2019.*** The respondents have failed to follow Section 14(4) of the Tamil Nadu Prohibition Act.

4. In view of the same, the questioning of detaining the vehicle and auctioning the same without any confiscation does not arise. The vehicle has also not been produced before the lower Court as a case property. The petitioner, further relied upon the judgment of this Court in ***W.P.(MD).No.12769 of 2020 (Selvaraj Vs. The Superintendent of Police, Trichy District, Trichy) dated 28.09.2020***, wherein, in similar circumstances, this Court had passed an order granting interim custody of the vehicle.

5. The learned Government Advocate (Crl.side) submits that in this case, the vehicle, though was seized by the respondent police on 08.04.2023, the vehicle is yet to be produced before the lower court as a case property in Crime No.71 of 2023, but the seized liquor bottles were produced. The vehicle was not produced, since they are contemplating to initiate confiscation proceedings. He



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further submits that the 2nd respondent sent the communication to the Additional Superintendent of Police, Ramanathapuram to initiate the confiscation proceedings, but yet to receive any orders from the Additional Superintendent of Police.

6. The learned counsel for the petitioner submits that he is not aware about the confiscation proceedings, no notice served to him, finding that the vehicle seized in the month of April 2023 and so far, the vehicle neither produced before the lower court, nor confiscation proceedings initiated. Only now request made to the Deputy Superintendent of Police. It is made clear that it is open to the respondents to initiate and conclude the confiscation proceedings interim custody of the vehicle alone granted this court in an identical situation had directed release the seized vehicle and handed over to the petitioner. The respondents to release the said vehicle subject to the following conditions:-

?a. The petitioner is directed to pay a sum of Rs.5,000/-
(Rupees Five Thousand only) in favour of the ***Legal Service Authority, Ramanathapuram District***. It will be a non-refundable



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payment. The Legal Service Authority is directed to spend the amount for appropriate welfare activities.

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

c. The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle.

d. As and 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.

7. Upon completion of these formalities, the respondents shall release the vehicle forthwith without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future. Accordingly, the writ petition is allowed. No costs.



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8. It is made clear that it is only the interim measurement subject to the outcome of the confiscation proceedings.

Index : Yes / No
Internet : Yes
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25.07.2023

Note : Issue a copy of order on 02.08.2023



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To:

- 1.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.
2. The Inspector of Police,
Thiruppullani Police Station,
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S.SRIMATHY, J

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**Order made in
W.P.(MD)No.17739 of 2023**

25.07.2023