



W.P.(MD).No.19085 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.19085 of 2023
and
W.M.P.(MD).No.15828 of 2023**

Kumaravel

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Prohibition and Enforcement Wing (PEW),
Tiruchirappalli District,
Tiruchirappalli.

2.The Inspector of Police,
Thuvarankurichi Police Station,
Tiruchirappalli District.
(Crime No.151 of 2023)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order of the first respondent vide his proceedings in Na.Ka. No.12/confiscn/DSP/PEW/TRI/23 dated 24.07.2023 quash the same as illegal.

For Petitioner : Mr.K.M.Karunakaran

For R-1 : Mr.B.Saravanan,
Additional Government Pleader.

For R-2 : Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side).



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ORDER

This Writ Petition is filed to quash the order dated 24.07.2023 passed by the first respondent.

2. The petitioner claims to be the owner of a vehicle bearing Registration No.TN 12 V 5213, Hyundai Xcent. He had entrusted the vehicle to his brother and it appears that on 16.06.2023, while the petitioner's brother went to Thuvarankurichi for purchasing provisions for his home, he parked the car in Bazaar Street, at that time, the second respondent Police has forcibly taken a car key and during the search, it was found that he was illegally transporting 32 liquor bottles, each consisting 180 ml. The second respondent had registered a case in Crime No.151 of 2023 for the alleged offences under Section 4(1)(a) r/w 4(1-A) and 4(1)(i) of the Tamil Nadu Prohibition Act, 1937 on 16.06.2023 and the petitioner's vehicle was seized and forwarded the same to the first respondent for the confiscation proceedings.

3. The respondents have already issued notice to the petitioner. On date of issuance of notice, the petitioner is not available in his home. However, the respondents have served the notice to the petitioner's brother and he has



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received the same. Hence, the respondents proceeded to consider the case and pass the impugned order. But the contention of the petitioner is that after receipt of notice dated 03.07.2023, the petitioner has submitted his reply on 16.07.2023. The respondents have not considered the said explanation dated 16.07.2023. Therefore, the said confiscation order is passed without giving proper opportunity and hence the order is hit by the principles of Natural Justice. Hence, the impugned confiscation order is liable to be quashed and the same is quashed.

4. The petitioner would submit that he is facing criminal action. Since the petitioner was not involved in the crime, he had requested the respondents for the release of vehicle. Since the confiscation order is quashed as stated supra, the petitioner is entitled to release of vehicle.

5. Considering the above, this Court directs the second respondent to release the vehicle bearing Reg. No.TN 12 V 5213 belonging to the petitioner subject to the following conditions:-

a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) in favour of the first respondent within a period of two (2) weeks from the date of receipt of a copy of this order along with an



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unconditional undertaking that he shall produce the vehicle as and when required.

6. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

08.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

Note: Issue Order Copy on 09.08.2023.

To

1.The Deputy Superintendent of Police,
Prohibition and Enforcement Wing (PEW),
Tiruchirappalli District,



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Tiruchirappalli.

2. The Inspector of Police,
Thuvarankurichi Police Station,
Tiruchirappalli District.
(Crime No.151 of 2023)

S.SRIMATHY, J.

Nsr



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