



W.P.(MD)No.26648 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.26648 of 2023

Naganathan

... Petitioner

versus

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

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the 1st respondent to release the petitioner's vehicle by brand namely Tata magic bearing Registration No.TN49 AZ 9128 pending disposal of the confiscation proceedings of the 1st respondent Police Station in connection with FIR in Crime No.36 of 2022 on the file of the 2nd respondent.

For Petitioner : Mr.A.Balaji
For Respondents : Mr.B.Thanga Aravindh,
Government Advocate (Crl. side)



W.P.(MD)No.26648 of 2023

ORDER

WEB COPY This writ petition has been filed for a Mandamus, directing the respondents to release the petitioner's vehicle bearing Reg.No.TN49 AZ 9128.

2. The case of the petitioner is that he is the owner of the vehicle bearing Reg.No.TN49 AZ 9128 and it was seized by the respondent police on 15.03.2022 in connection with the case in Crime No.36 of 2022 for the offence under Section 4(1)(a) of the Prohibition Act. Now, the said vehicle is kept idle in the Police Station without any progress. Though he made representations on 05.07.2023 and 29.09.2023 to the first respondent seeking interim custody of the vehicle, the same have not been considered. Hence, the present writ petition has been filed.

3. The learned Government Advocate (Crl. Side) appearing for the respondents submits that proceedings was initiated and notice was



W.P.(MD)No.26648 of 2023

also served on the petitioner and other accused, however, they refused to receive the notice and therefore, final order has not been passed sofar.

4. Though there is a specific provision for confiscation of vehicle, it appears that the respondents have not preferred to invoke the provision under Section 14 of the Tamil Nadu Prohibition Act.

5. In *Sunderbhai Ambalal Desai and others Vs. State of Gujarat*, reported in (2002) 10 SCC 283, the Hon'ble Supreme Court has observed that it is of no use to keep such seized vehicles at the Police Station for a long period. The claim of the petitioner is that he is the owner of the vehicle and he is not involved in the case in Cr.No.36 of 2022.

6. Considering the fact that the petitioner's vehicle which was seized in the month of March 2022 is kept idle without any usage for



W.P.(MD)No.26648 of 2023

the past 1 ½ years and also considering the ratio laid down by the

WEB COM

Hon'ble Supreme Court in *Sunderbhai Ambalal Desai and others vs.*

State of Gujarat, reported in (2002) 10 SCC 283, this writ petition is

disposed of with the following directions:

(i) the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) in favour of the first respondent;

(ii) The petitioner shall file an undertaking affidavit that he would produce the vehicle as and when required by the respondents for enquiry;

(iii) the petitioner shall co-operate for the confiscation proceedings, if any, initiated by the respondents,

(iv) The petitioner shall not change or alter the condition of the vehicle and shall not alienate or encumber the vehicle till the proceedings are completed.

No costs.

07.11.2023

ogy

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.



W.P.(MD)No.26648 of 2023

To

WEB COPY

1. The Deputy Superintendent of Police,
Prohibition Enforcement Wing (PEW)
Ramanathapuram District,
Ramanathapuram.
2. The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District.



WEB COPY



W.P.(MD)No.26648 of 2023

B.PUGALENDHI, J.

ogy

W.P.(MD)No.26648 of 2023

07.11.2023