



W.P.(MD)No.28688 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.28688 of 2023

Kalidass

... Petitioner

versus

1. Additional Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.
2. Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.
3. The Inspector of Police,
Dhanuskodi Police Station,
Ramanathapuram District.
(Cr.No.77/2023)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondent to release the petitioner's two-wheeler vehicle in bearing Reg.No.TN65AR 0423 within stipulated time to be fixed by this Court by considering his representation dated 22.11.2023.



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For Petitioner : Mr.B.Mahendrarajan

For Respondents : Mr.B.Thanga Aravindh,
Government Advocate

ORDER

This writ petition has been filed for a Mandamus, directing the respondents to release the petitioner's two-wheeler bearing Reg.No.TN65AR 0423.

2. The learned counsel appearing for the petitioner submits that the petitioner's two wheeler bearing Reg.No.TN65AR 0423 has been seized by the respondent Police that it was involved in a case in Cr.No. 77 of 2023 for the offence punishable under Section 4(1)(a) of the Tamil Nadu Prohibition Act. He further submits that the petitioner is an innocent and he is in no way connected with the offence. Therefore, he seeks for release of the petitioner's vehicle.



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3. It appears that the petitioner's vehicle has been kept under the custody of the respondent Police.

4. The seized vehicles ought to have been produced before the concerned Judicial Magistrate. If the vehicles have not been produced, then the concerned Judicial Magistrate can issue a direction to the police officials to produce the seized vehicles before them and thereafter, can consider the case of the owner of the vehicles under Section 451 Cr.P.C.

5. In *Sunderbhai Ambalal Desai and others Vs State of Gujarat*, reported in (2002) 10 SCC 283, the Hon'ble Supreme Court has held that the seized vehicles shall not be unnecessarily kept under the custody of Police without initiating any proceedings, pending trial or pending confiscation.



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6. In view of the same, the respondents are directed to remand the petitioner's vehicle to the concerned Judicial Magistrate forthwith.

The petitioner is at liberty to file an application before the concerned Judicial Magistrate for return of his vehicle by invoking the provisions under Section 451 Cr.P.C. In the event of filing any such application under Section 451 Cr.P.C., the concerned Judicial Magistrate shall consider the case of the petitioner in the light of the Judgment of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai and others Vs State of Gujarat*, reported in (2002) 10 SCC 283.

7. With the above direction, this writ petition is disposed of. No costs.

06.12.2023

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.



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