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Crl.R.C.No.617 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.617 of 2024

Pandurangan

.. Petitioner

Vs.

State Rep.by

The Inspector of Police,
Chunambedu Police Station,
(Crime No.409/2023)

U/S: 4(1)(a) TNP Act.(Transporting)

.. Respondent

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of the Code of Criminal Procedure Code, to set aside the order dated 16.02.2024 in C.M.P.No.767/2023 on the file of District Munsif Cum Judicial Magistrate, Cheyyur and consequently, direct the respondent to hand over the interim custody of the property bearing No.PY-05 D-5145, Chasis No.MB8DP11AJH8578835, two wheeler, Suzuki Access 125 SP Disk belongs to the petitioner.

For Petitioner : Mr.P.Vijayakumar

For respondent : Mr.A.Gopinath,
Government Advocate (Crl.Side)

ORDER

The vehicle belonging to the petitioner was seized in the investigation of Crime No.409 of 2023 alleged to have been found with illegal possession of Brandy bottles. Aggrieved by which, the petitioner filed an application under Section 451 of Code of Criminal Procedure which was



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rejected by the Trial Court

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2. It is the case of the petitioner that, on 20.08.2023, the petitioner's two wheeler bearing Reg.No.PY-05 D-5145 was seized by the respondent police alleging illegal transportation of 59 Brandy bottles, 180 ML each named blue Grape for which a criminal case was registered against the petitioner in Crime No.409 of 2022 under Section 4(1)(a) of Tamil Nadu Prohibition Act, 1937. Subsequently, the petitioner moved a petition for return of vehicle under Section 451 of Cr.P.C seeking interim custody of the property before the District Munsif-cum-Judicial Magistrate, Cheyyur in C.M.P.No.767 of 2023 however, the said petition was mechanically rejected by the Trial court vide order dated 16.02.2024 on the ground that confiscation proceedings under Section 14(4) of the Act, 1937 is pending. Challenging the said rejection order, the present revision has been filed by the petitioner.



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3. Learned counsel appearing for the petitioner would submit that since the confiscation proceedings under Section 14(4) of the Act is pending consideration, inspite of the seizure of the vehicle, keeping the vehicle in disuse and in the open atmosphere would result in deterioration of the vehicle and diminishing its value, the petitioner was constrained to file the petition under Section 451 Cr.P.C seeking return of the vehicle. However, on instructions, he further submitted that the petitioner, without prejudice to his rights, is ready to deposit a sum of Rs.25,000/- which may be utilised for any relief measure as may be ordered by this Court.

4. On the above contention, this Court heard the learned Government Advocate (Crl.Side) appearing for the respondent.

5. Even though the Trial Court had negated the right of the petitioner for return of vehicle pending the confiscation proceedings under Section 14(4) of the Act, however, considering the fact that keeping the vehicle in the open atmosphere would deteriorate and diminish its value and also taking into consideration the fact that the transportation did not involve



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narcotic substances and also in view of the fact that the petitioner has voluntarily accepted to deposit a sum of Rs.25,000/- in lieu of release of the vehicle for being used for any relief measure, this Court is inclined to direct release of the vehicle on condition that the petitioner deposits a sum of Rs.25,000/- to the credit of Crime No.409 of 2023 on the file of the District Munsif Cum Judicial Magistrate, Cheyyur subject to the following conditions :-

(i) The order of the learned District Munsif Cum Judicial Magistrate, Cheyyur in CrI.M.P.No.767 of 2023, dated 16.02.2024 is set aside;

(ii) The petitioner will be entitled for return of the Two Wheeler Suzuki Access 125 SP Disk bearing No.PY-05 D-5145, Chasis No.MB8DP11AH8578835, Engine No.AF211446500 on condition that the petitioner shall deposit a sum of Rs.25,000/- to the credit of Crime No. 409 of 2023 on the file of the District Munsif Cum Judicial Magistrate, Cheyyur

(iii) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Judge, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use



the vehicle;

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(iv) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(v) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

(vi) The petitioner shall participate in the confiscation proceedings and shall produce the vehicle before the confiscation authority. This order is subjected to the confiscation proceedings.

(vii) The petitioner shall not indulge in the similar offence either by using the present vehicle or any other vehicle. If the petitioner is found to be involved in any of similar offence in future either by way using the present vehicle or through any other vehicle, this order of returning the present vehicle (Two Wheeler Suzuki Access 125 SP Disk bearing No.PY-05 D-5145, Chasis No.MB8DP11AH8578835, Engine No.AF211446500), shall

M.DHANDAPANI, J.



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stand automatically vacated, and this vehicle will be again seized by the respondent/police and produced before the Court concerned;

6. Accordingly, the Criminal Revision Case is allowed in the above terms.

03.04.2024

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To

1. The District Munsif Cum Judicial Magistrate,
Cheyyur
2. The Inspector of Police,
Chunambedu Police Station.

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