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Crl.R.C.No.2086 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2086 of 2024

Suriya

...

Petitioner

Vs.

The State Represented by
Inspector of Police
Vaduvur Police Station,
Crime No.162 of 2024)

...

Respondent

Prayer: Criminal Revision Petition filed under Sections 438 r/w 442 of BNSS, praying to set aside the impugned order dated 25.06.2024 passed by the learned Judicial magistrate No.1, Mannargudi in Crl.MP No.4299 of 2024 in Crime No.162 of 2024 and consequently direct the Judicial Magistrate Court No.1, Mannargudi to release the vehicle bearing Regn.No.TN 50 AV 6958 (Royal Enfield) towards the interim custody of the petitioner.

For Petitioner : Mr.S.Nirmal Aditya

For Respondent : Mr.S.Udaya Kumar
Govt. Advocate (crl.side)



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ORDER

This revision challenges the dismissal of the petitioner's application filed under Section 451 of Cr.P.C. seeking return of his two-wheeler which was seized during the investigation.

2. The petitioner is the accused in Crime No.162 of 2024 registered for the offences under Section 328 r/w 7(1) & 7(2) of COTPA 2003. During the course of investigation, the respondent seized the petitioner's vehicle stating that the said two-wheeler was used for transporting the contraband. The petitioner filed Crl.M.P.No.4298 of 2024 before the learned Magistrate seeking return of his vehicle. However, the said petition was dismissed on the ground that the offences against the petitioner are triable before the Sessions Court and therefore the petition is not maintainable.

3. The learned counsel for petitioner would submit that the learned Magistrate is the Committal Magistrate and the vehicle was produced before the learned Magistrate after seizure; and that the learned Magistrate is the competent authority and relied upon the judgment of this Court in Crl.O.P Nos.646, 661, 668, 681 & 1146 of 2024 dated 29.01.2024 in Annadurai &



Others v. The Inspector of Police, Thirupathur, wherein under similar circumstances, this Court has held that the Committal Magistrate will have jurisdiction to entertain the petition for release of the property.

4. The learned Government Advocate (crl.side), per contra, submitted that the offences are triable by the Sessions Court; and that the petitioner has used his vehicle for the purpose of transporting the contraband and therefore opposed the prayer sought for by the petitioner.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (crl.side) appearing for the respondent and perused the records.

6. Admittedly, the petitioner is the owner of the two-wheeler bearing Regn.No.TN 50 AV 6958. The said vehicle was seized during the investigation and produced before the learned Magistrate. The learned Magistrate has power to release the vehicle, as held by this Court in the order dated 29.01.2024 in *Annadurai & Others v. The Inspector of Police*, cited *supra*. The relevant observation of the above said order is as follows -



(e) Ex-consequenti, the Court for the purpose of Section 21(4-A) is the Court of the Magistrate since it is that Court which is empowered to take cognizance of the offences under Section 21(1). Hence, an application for release of vehicle will lie only before the jurisdictional Magistrate.

7. Though the above said observation were made in connection with the offence under the Mines and Minerals (Development & Regulation Act, 1957 (MMDR Act), the principle would squarely apply to the facts of the instant case, as the learned Magistrate is the jurisdictional Magistrate. Pursuant to the seizure, the vehicle is kept in the police station and since then, it is in the custody of the respondent. It is also not in dispute that the two-wheeler is kept idle in an open place.

8. The Hon'ble Supreme Court and this Court have repeatedly held that the vehicles cannot be allowed to be kept in an open place and subjected to vagaries of the weather and that the property can be returned to the proper persons entitled custody on stringent conditions, pending disposal of the trial. In the above said circumstances, this Court is inclined to return the vehicle to the petitioner.



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9. Accordingly, this **Criminal Revision Case is allowed** and the impugned order dated 25.06.2024 passed by the learned Judicial Magistrate No.1, Mannargudi in Crl.M.P.No.4299 of 2024 is set aside. In view of the same, the respondent is directed to return the two-wheeler to the petitioner on the following conditions -

(i) The petitioner shall execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.1, Mannargudi ;

(ii) The petitioner shall produce the original RC Book along with a self-attested Photostat copy of the RC Book of the vehicle and other relevant records to prove his ownership. The learned Judicial Magistrate No.1, Mannargudi shall peruse the RC book and other records, retain a xerox copy of the same and return the original RC book to the petitioner;

(iii) The petitioner shall not alter or alienate the vehicle in any manner;

(iv) The petitioner shall also give an undertaking that he will produce the vehicle as and when required by the



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respondent and by the court below.

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(v) The return of property would be subject to the result of the confiscation proceedings, if any.

04.12.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

- 1.The Inspector of Police
Vaduvur Police Station.
- 2.The Judicial Magistrate No.I,
Mannargudi.
- 3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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