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Crl.R.C.No.2241 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2241 of 2024

Kaviyarasan

...

Petitioner

Vs.

State Rep.by
The Inspector of Police
Thiyagadurgam Police Station,
Kallakurichi District.
(CRIME NO.340 of 2024)

...

Respondent

Prayer: Criminal Revision Petition filed under Sections 438 r/w 442 of Bharatiya Nagarik Suraksha Sanhita Act, 2023 to call for the records in CRL.MP.No.3344 of 2024 on the file of Judicial Magistrate No.2 at Kallakurichi and set aside the same and subsequently grant interim custody of Bajaj Pulsar bike bearing registration number TN 15 U 7506 to the petitioner.

For Petitioner : Mr.G.Arunasekaran

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



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ORDER

The Revision challenges the dismissal of the petitioner's application filed under Section 497 & 503 of BNSS for release of his Bajaj Pulsar bike bearing Registration No.TN 15 U 7506.

2. The petitioner is the accused in Crime No.340 of 2024 under Section 4(1) (i) of TNP Act, 4(1)(A) TNP Amendment Act, 2024. He was in possession of 20 Nos. of TASMAC liquor bottles which was attempted to be sold in the open market. During the course of investigation, Bajaj Pulsar bike bearing Registration No.TN 15 U 7506 of the petitioner was seized. The learned Magistrate dismissed the petition stating that the court has no authority to direct the respondent to release the vehicle when confiscated.

3. The learned counsel for petitioner would submit that the petitioner's vehicle is kept idle in the police station from the date of seizure and subjected to vagaries of the weather, which would diminish its value and therefore, the petitioner may be permitted to take return of the vehicle and undertook to abide by any stringent conditions imposed by this Court.



4. The learned Government Advocate (crl.side), on instructions, submitted that the respondent are yet to take steps to initiate confiscation proceedings.

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

6. On perusal of the records, it is seen that the vehicle of the petitioner was seized and it is kept in the police station in an open place, subject to the vagaries of weather. The value of the vehicle would therefore diminish. The Hon'ble Supreme Court had held in such cases that the vehicle can be returned to the owner who is entitled to proper custody on conditions. Hence, this Court is of the view that the two-wheeler be returned to the petitioner.

7. Accordingly, this **Criminal Revision Case is allowed** and the impugned order dated 18.10.2024 made in CRL.MP.No.3344 of 2024 by the learned Judicial Magistrate No.2 at Kallakurichi is set aside. In view of the same, the respondent is directed to return the vehicle bearing Registration No.TN 15 U 7506 to the petitioner on the following conditions:

(i) The petitioner shall execute a personal bond for a



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sum of Rs.25,000/- (Rupees Twenty Five Thousand only)
with two sureties for a likesum to the satisfaction of the
learned Judicial Magistrate No.2, Kallakurichi ;

(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.2,
Kallakurichi 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
respondent and by the court below.

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

10.12.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
rgr



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SUNDER MOHAN, J.

rgr

To

1.The Judicial Magistrate No.2,
Kallakurichi.

2.The Inspector of Police
Thiyagadurgam Police Station,
Kallakurichi District

3.The Public Prosecutor,
High Court, Madras.

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