



W.P.(MD)No.106 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.106 of 2024

V.Kumaravel

... Petitioner

versus

The Inspector of Police,
Sattur Town Police Station,
Sattur,
Virudhunagar District.

... Respondent

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 Auto bearing Reg.No.TN67 BQ 0986 seized on 11.12.2023 pertaining to Crime No.421 of 2023 on the file of the respondent based on the petitioner's representation dated 26.12.2023.

For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondent : Mr.Vaikkum Karunanidhi,
Government Advocate (Crl. side)



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ORDER

The petitioner, with a grievance that his vehicle-Auto bearing Reg.No. TN67 BQ 0986 was seized by the respondent Police on 11.12.2023 that his vehicle was used for commission of offence under Section 4(1)(a) of the Tamil Nadu Prohibition Act, 1937, has filed this writ petition for a Mandamus, directing the respondent Police to release his vehicle based on his representation dated 26.12.2023.

2. The learned counsel appearing for the petitioner submits that on 11.12.2023, the respondent Police, on vehicle check up, found that one Namasivayam, who was travelling in the petitioner's Auto, was found in possession of 100 liquor bottles in a box and seized the same from the said Namasivayam and also registered a case in Crime No.421 of 2023 under Section 4(1)(a) of the Tamil Nadu Prohibition Act. The petitioner is shown as accused No.1 and the said Namasivayam is shown as accused No.2. He further submits that the seized vehicle has



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not been produced before the concerned Judicial Magistrate so far and therefore, the petitioner is not in a position to file an application for return of vehicle. He further submits that the seized auto is the only source of income for the petitioner's family. Therefore, he seeks for release of the vehicle. In support of his contentions, he has also relied upon the Judgment of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai and others vs. State of Gujarat***, reported in **2002 10 SCC 283**, and another Judgment in ***David vs. Sathivel, Inspector of Police cum Station House Officer***, reported in **2010 (1) MCJ 929**.

3. The learned Government Advocate (Crl. Side), who takes notice for the respondent, submits that the petitioner has used his auto for illegal transportation of 100 liquor bottles and therefore, his auto has been seized by the respondent Police in Cr.No.421 of 2023 for the offence under Section 4(1)(a) of the Tamil Nadu Prohibition Act. He further submits that the respondent Police has initiated action for confiscation of the vehicle, as per the provisions under Section 14 of



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the Tamil Nadu Prohibition Act.

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4. This Court has considered the rival submissions made.

5. The petitioner's auto was seized on 11.12.2023. The petitioner claims that it is a brand new auto and he was not aware that the passenger, who was shown as 2nd accused, was carrying 100 liquor bottles. He further claims that he is having a good case in the trial.

6. The petitioner's Auto, which has been seized by the respondent Police, has not been produced before the concerned Court so far and it is the source of income for his family.

7. Considering the ratio laid down by the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai's case***, this writ petition is allowed with the following directions:

(i) the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two



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sureties each for a like sum to the satisfaction of the respondent Police;

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

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

(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.

04.01.2024

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

Note: Issue order copy today.

To

The Inspector of Police,
Sattur Town Police Station,
Sattur,
Virudhunagar District.

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B.PUGALENDHI, J.

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