



W.P.(MD)No.223 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.223 of 2024

Balamurugan @ Murugan

... Petitioner

versus

1. The Additional Superintendent of Police,
Prohibition Enforcement Wing (PEW)
Sivagangai,
Sivagangai District.

2. The Inspector of Police,
Karaikudi South Police Station,
Sivagangai District.
(Crime No.266 of 2023)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the first respondent to release the petitioner's vehicle BAJAJ AUTO bearing Reg.No.TN63E 1478 pending disposal of the confiscation proceedings of the 1st respondent Police Station in connection with FIR in Crime No.226 of 2023 on the file of the 2nd respondent.



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For Petitioner : Mr.A.Balaji

For Respondents : Mr.Vaikkum Karunanidhi,
Government Advocate (Crl. Side)

ORDER

The petitioner, with a grievance that his vehicle-Auto bearing Reg.No.TN63E 1478, was seized by the 2nd respondent on 10.10.2023 on the ground 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 first respondent to release his vehicle.

2. The learned counsel appearing for the petitioner submits that the petitioner has lent the said vehicle to one Sheik Abdullah @ Piranmalai on daily rental basis. On 10.10.2023, the 2nd respondent Police, on vehicle check up, found that the said Sheik Abdullah was found in possession of 18 liquor bottles in the said vehicle and therefore, the 2nd respondent Police has registered a case in Crime No. 266 of 2023 under Section 4(1)(a) of the Tamil Nadu Prohibition Act.



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The petitioner is an innocent person and he was not added as an accused in the said case. He further submits that the seized vehicle has 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.

3. The learned Government Advocate (Crl. Side), who takes notice for the respondents, submits that the petitioner's vehicle was used for illegal transportation of 18 liquor bottles and therefore, the vehicle has been seized by the respondent Police in Cr.No.266 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 Section 14 of the Tamil Nadu Prohibition Act.



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4. This Court has considered the rival submissions made.

5. In *Sunderbhai Ambalal Desai and others Vs. State of Gujarat*, reported in *(2002) 10 SCC 283*, the Hon'ble Supreme Court has observed that it is of no use to keep such seized vehicles at the Police Station for a long period. The claim of the petitioner is that he is the owner of the vehicle and he has not involved in the case in Cr.No. 266 of 2023 and the seized vehicle is the only source of income for his family.

6. Considering the fact that the petitioner's vehicle, which was seized in the month of October 2023, is kept idle without any usage and it is the only source of income for his family and also considering the ratio laid down by the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai and others vs. State of Gujarat*, reported in *(2002) 10 SCC 283*, this writ petition is disposed of with the following directions:

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



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first respondent;

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

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

(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.

08.01.2024

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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B.PUGALENDHI, J.

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