



W.P.(MD)No.1657 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.1657 of 2024
and
W.M.P.(MD)No.1694 of 2024

Alex Pandian

... Petitioner

versus

1. The Additional Superintendent of Police,
Prohibition and Excise Wing,
Thoothukudi District,
Thoothukudi.

2. The Inspector of Police,
Pudur Police Station,
Thoothukudi District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the 2nd respondent herein to pass appropriate orders to release the petitioner's vehicle Ashok Leyland DOST in bearing Reg.No.TN79 D 2446 based on the petitioner's representation dated 19.01.2024.



W.P.(MD)No.1657 of 2024

For Petitioner : Mr.M.Prabu

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

ORDER

The petitioner is the owner of a lorry bearing Reg.No.TN79D 2446 and he has filed this writ petition for a Mandamus directing the respondents to release his vehicle, by considering his representation dated 09.01.2024.

2. The grievance of the petitioner is that during the pongal festival, the vehicle was seized by the 2nd respondent alleging that the driver of the vehicle was in possession of 143 liquor bottles without any permit, for which, a case has been registered in Crime No.3 of 2023 for the offence punishable under Sections 4(1)(a) and 14(A) of Tamil Nadu Prohibition Act, 1937. This, according to the petitioner, is a foisted one.



W.P.(MD)No.1657 of 2024

3. The learned counsel appearing for the petitioner submits that the petitioner is not an accused in the criminal case registered by the second respondent Police. He also submits that the vehicle which was seized by the respondent Police in Cr.No.3 of 2023 for the offence under Sections 4(1)(a) and 14(A) of Tamil Nadu Prohibition Act, 1937 is still with the second respondent and the same has not been produced before the concerned Judicial Magistrate Court. Therefore, the petitioner has approached this Court for release of the vehicle. He has also relied upon an order of this Court dated 31.01.2022 passed in a similar case in W.P.(MD)No.1714 of 2022.

4. The learned Government Advocate (Crl. Side) appearing for the respondents submits that the petitioner's vehicle was seized for the offences under Sections 4(1)(a) and 14(A) of Tamil Nadu Prohibition Act, 1937, for which, a criminal case has been registered in Crime No.3 of 2023 and the same is under investigation.



W.P.(MD)No.1657 of 2024

WEB COPY

5. In a similar case, this Court, by order dated 31.01.2022, in W.P.(MD)No.1714 of 2022, following the order dated 18.09.2020 passed in W.P.(MD)No.12019 of 2020, disposed of the writ petition directing the respondents therein to release the vehicle subject to certain conditions. The relevant portion is extracted as under:

“6. Therefore, there shall be a similar order in the captioned matter. The order is as follows:

6.1. I make it clear that it is very much open to the respondents herein to initiate and conclude the confiscation proceedings. The only relief that I am granting is interim custody of the vehicle. I have not gone into the merits of the matter.

6.2. Therefore, the respondents are directed to release the said vehicle subject to the following conditions:

a) The petitioner is directed to pay a sum of Rs.2,000/- (Rupees Two Thousand only) to the credit of the Officer-in-Charge, High Court Legal Services Committee, Madurai Bench of Madras High Court, Madurai, S.B.A/c.No.496037387, IFSC : IDIB000H040, Indian Bank, High Court



Branch, Madurai. It will be a non refundable payment. The Registrar (Judicial) is directed to spend the amount for appropriate welfare activities such as feeding the disadvantaged communities in Madurai District;

b) The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed;

c) The petitioner shall produce all documents pertaining to ownership of the seized vehicle;

and

d) when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.

6.3. Upon completion of these formalities, the respondents shall release the vehicle forthwith without any delay. If aforementioned undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future.”



W.P.(MD)No.1657 of 2024

6. In view of the decision rendered by this Court in W.P.
(MD)No.1714 of 2022, dated 31.01.2022, this writ petition is disposed
of on the above terms. No costs. Consequently, connected
miscellaneous petition is closed.

30.01.2024

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

1. The Additional Superintendent of Police,
Prohibition and Excise Wing,
Thoothukudi District,
Thoothukudi.
2. The Inspector of Police,
Pudur Police Station,
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W.P.(MD)No.1657 of 2024

B.PUGALENDHI, J.

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W.P.(MD)No.1657 of 2024

30.01.2024