



W.P.(MD) No.14402 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.14402 of 2024

Michael Kennedy

... Petitioner

Vs.

1.The Commissioner of Customs (Preventive),
No.1,Williams Road,
Contonment,
Trichy – 620 001.

2.The Additional Commissioner,
O/o. the Commissioner of Customs (Preventive),
No.1, Williams Road,
Contonment,
Trichy – 620 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in File No.GEN/ADJ/ADC/417/2024-ADJN DIN-20240381OI000000ACC3 dated 05.03.2024 passed by the 2nd respondent and quash the same as illegal and consequently direct the respondents to release the petitioner's vehicle Wagon R VXi BS IV bearing No.TN-63 AT-1076.



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For petitioner : Mr.P.Kannathasan
For respondents : Mr.N.Dilip Kumar
Senior Standing Counsel

ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

2. In this Writ Petition, the petitioner has challenged the impugned order passed by the second respondent/Additional Commissioner, dated 05.03.2024 in his proceedings bearing reference in File No.GEN/ADJ/ADC/417/2024-ADJN DIN-20240381OI000000ACCC3

3. By the impugned order, the request of the petitioner for provisional release of the vehicle seized from the custody of the petitioner and the cash has been rejected, on the ground that the investigation is pending for the alleged offences made out by the petitioner under the provisions of Customs Act, 1962 and Prevention of Money Laundering Act, 2002. Relevant portion of the impugned order reads as under:

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Please refer your two affidavits referred above praying for the release of seized Maruti Wagon R VXi BS IV vehicle bearing Regn. No. TN63AT1076 and the cash of Rs.5,35,000/- under OR. No.109/2023 AIU, Trichy on 15.09.2023 from you.

2. In the voluntary statement given before the officers of AIU, Trichy on 15-09-2023 you have admitted that on the instructions of one Shri Naina, who was familiar to you, a plan was hatched to smuggle 999.000 grams of gold of 24 karat purity in the form of two Nos. of unfinished gold chains valued at Rs. 59,64,030/- without payment of duty. In the above statement you have admitted that Rs.5,35,000/- was kept in the vehicle to defray expenses in connection with the above smuggling activities. You have admitted that the said gold articles were brought from Singapore through the passenger Shri Natarajan and the Customs Driver Shri Kumar. You have admitted the keeping of the cash for the purpose of meeting out the expenses of paying commission to S/Shri Natarajan and Kumar for abetting the above smuggling activity.

3. Shri Natarajan has admitted in his voluntary statement given



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before the AIU officers on 15-09-2023 that had brought two gold chains weighing 999.000 grams from Singapore by Indigo flight No.6E 1008 on 15-09-2023 to be handed over to Shri Kumar, Driver of Customs before DFMD for a commission of Rs 40,000/- as per the plan hatched by you.

4. Shri Kumar, Driver of Customs has admitted in his voluntary statement given before the AIU officers on 15-09-2023 the receipt of two Nos. of gold chains from Shri Natarajan for subsequently handing over to you for a commission of Rs.30000/- as per the hatched plan and also identified you as the receiver of the said gold chains from him.

5. From the statements of S/Shri Natarajan and Kumar, the seizure the above said gold and the cash of Rs.5,35,000/- prima facie establishes the attempt hatched by you through S/Shri Natarajan and Kumar in the smuggling above said gold and the amount of Rs.5,35,000/- kept in the vehicle for defraying the expenses in connection with the smuggling activities. You have used the Maruti Wagon R VXI BS IV vehicle bearing Regn. No. TN63AT1076 for the above smuggling activity which is evidenced from the recovery of Rs.5,35,000/- from the said vehicle and you have admitted the same in your voluntary statement.

6. In view of the above facts and circumstances, the above said gold, vehicle and the cash were seized by the officers of AIU. Further investigation is going on for unearthing the role of Shri Naina and the attraction other provisions such as Money Laundering Act. Since complete investigation of the above case has not yet completed, your request for release of the seized Maruti Wagon R VXI BS IV vehicle bearing Regn. No. TN63AT1076 and the cash of Rs.5,35,000/- is rejected.

4. The learned Senior Standing Counsel for the respondents would submit that there is no scope for releasing the subject vehicle, as the subject vehicle is liable for confiscation in view of the admissions made by all the three persons



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viz., passenger-Natarajan, Customs Driver-Kumar and the petitioner, who was too received the smuggled gold and the cash, which were found in the petitioner's vehicle.

5. It is submitted that the investigation will be completed in due course of time and appropriate orders will be passed for confiscation of the cash and the vehicle and therefore, the petitioner's request for releasing the vehicle and the cash is liable to be rejected.

6. I have considered the arguments advanced by the learned counsel for the petitioner and Senior Standing Counsel for the respondents.

7. In my view, the presence of the car, that has been seized from the petitioner will serve no purpose for investigation, as the details are available with the Customs Department. Since no useful purpose will be served by keeping the vehicle idle without it being run. Its value will depreciate as the days go by. Therefore, to balance interest of the parties, the Court is inclined to come to the rescue of the petitioner by ordering provisional release of the subject car subject



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to the petitioner depositing a sum of Rs.1,00,000/- with the second respondent, as a security, for the proposed proceedings to be initiated against the petitioner for confiscation under the provisions of the Customs Act, 1962 and Prevention of Money Laundering Act, 2002.

8. The petitioner shall not transfer or alienate the subject car without permission of the Customs Department and the authorities under the provisions of the Prevention of Money Laundering Act, 2002. The petitioner shall produce the car for inspection once in six months pending further orders in the proceedings to be initiated against the petitioner and for confiscation of the car and the cash under the provisions of the Prevention of Money Laundering Act, 2002. Subject to such compliance, the car shall be released provisionally forthwith.

This Writ Petition is disposed of, with above directions. No costs.

Index : Yes / No
Internet : Yes / No
apd

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To

1.The Regional Transport Officer and Licensing Authority,
O/o.the Licensing Authority,
Transport Department,
Madurai North,
Madurai.

2.The Inspector of Police,
M.Chatrapatti Police Station,
Madurai.



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C.SARAVANAN, J.

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