



W.P.(MD) No.14233 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.14233 of 2024

Kannan

... Petitioner

/vs./

1.State represented through
Additional Superintendent of Police,
Prohibition Enforcement Wing,
Sivagangai District.

2.The Inspector of Police,
Sipcot Police Station,
Manamadurai,
Sivagangai District 630 606.
Crime No.42 of 2024

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to release the petitioner's Honda DIO Two Wheeler Vehicle No.TN 63 - BQ-4113 based on the petitioner's representation and Explanation dated 15.05.2024 within a time stipulated by this Court.

For Petitioner : Mr.P.Ponraj



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For Respondents : Mr.A.Albert James
Government Advocate (Crl.side)

ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondents and after dispensing with the counter and with the consent of the learned Government Advocate (Crl.side) for the respondents.

2.In this writ petition, the petitioner has prayed for Mandamus to direct the respondents to release the petitioner's Honda Dio Two Wheeler Vehicle bearing Reg.No.TN 63-BQ-4113 based on the petitioner's representation and explanation dated 15.05.2024.

3.The case of the petitioner is that the petitioner's vehicle was seized by the second respondent on 30.03.2024 for alleged violation of the provisions of Section 4(1)(d) of Tamil Nadu Prohibition Act, 1937.



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4.It is submitted that the petitioner was earlier the accused in Crime No.67 of 2023 before the second respondent for the alleged offences under Section 379 IPC and Section 21(1) of the Mines and Minerals Act, 1957 and that the petitioner had secured release of the vehicle from the Special Court, Sivagangai, vide order dated 01.08.2023.

5.It is submitted that the petitioner had verbal argument with the second respondent and therefore, the second respondent has wrongly foisted a case against the vehicle in Crime No.42 of 2024 dated 30.03.2024 for the alleged violation of Section 4(1)(d) of Tamil Nadu Prohibition Act, 1937.

6.It appears that the petitioner had earlier approached the learned Judicial Magistrate, Manamadurai for provisional release of the vehicle pending confiscation proceedings in CrI.M.P.No.1810 of 2024, which came to be dismissed with the following observations:

“15.Considering the factum as placed by the respondent that the vehicle being sent by the Sipcot PS of Sivagangai district to the ASP office, Sivagangai for confiscation proceedings and further steps being taken by the executives in respect of it, places substance on the submission.



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16.In conformity to the Hon'ble Madras High Court courts direction in the David Vs Shakthivel, Inspector Of Police after affording sufficient opportunity to the prosecution and keeping in view the spirit of section 14(4) of the Tamil Nadu Prohibition Act, this petition is dismissed.”

7.The learned counsel for the petitioner would submit that a false case has been foisted against the petitioner. It is submitted that the petitioner requires the aforesaid vehicle for his day-to-day affairs for his avocation as a daily coolie.

8.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondents.

9.There appears to be previous involvement of the petitioner for violation of offences under the provisions of the Mines and Minerals Act, 1957. Now, for the second time, the petitioner is involved for the alleged violation of provisions of the Tamil Nadu Prohibition Act, 1937, attracting punishment under Section 4(1)(d) of Tamil Nadu Prohibition Act, 1937. The retention of the vehicle by the second respondent would serve neither the purpose of the petitioner nor the respondents.



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10. Under these circumstances, the subject vehicle is directed to be released to the petitioner subject to the petitioner depositing a sum of Rs.5,000/- to the credit of Crime No.42 of 2024 before the learned Judicial Magistrate, Manamadurai. The petitioner shall not alienate or transfer the vehicle to any third person without the permission of the official respondents.

11. The release of the vehicle will also not be to the prejudice of the rights of the respondents to proceed against the petitioner in accordance with law. The respondents are directed to issue suitable directions to the Regional Transport Authority and thereby blacklist any attempt to transfer of vehicle by the petitioner to any third person pending such proceeding. Subject to the above compliance of the conditions by the petitioner, the vehicle shall be released forthwith to the petitioner.

12. The Writ Petition stands disposed of, accordingly. No costs.

Index : Yes / No
Internet : Yes / No
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To

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C.SARAVANAN, J.

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