



W.P.(MD) No.16107 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.16107 of 2024

Jothisigamani

... Petitioner

Vs.

1.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
O/o. the Additional Superintendent of Police,
Nagercoil, Kanniyakumari.

2.The Inspector of Police,
Nagercoil Prohibition Enforcement Wing,
Kanniyakumari.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the first respondent to release the petitioner's Maruti Ertiga Car bearing Registration no.TN 72 CZ 0123, pertaining to the case in Cr.No.262 of 2024 on the file of the second respondent herein and return the vehicle to the petitioner based on the representation dated 06.06.2024 and 14.06.2024.

For petitioner : Mr.B.Fazilkirmani

For respondents : Mr.A.Albert James

Government Advocate (Crl.Side)



W.P.(MD) No.16107 of 2024

WEB COPY

ORDER

The petitioner is the owner of the vehicle bearing Registration No.TN 72 CZ 0123 (Maruti Ertiga), which was found carrying the liquor of 110 bottles, contrary to the regulations under the provisions of the Tamil Nadu Prohibition Act, 1937 and the Rules made thereunder. The car was driven by the petitioner's Driver namely, Pramasivan and was seized by the second respondent on 01.06.2024.

2. The case of the petitioner is that the vehicle was misused by the Driver of the petitioner and without knowledge of the petitioner as the said Driver was carrying illicit quantity of liquor.

3. It is submitted that the petitioner has been penalised for no fault of the petitioner as the subject vehicle of the petitioner has been seized by the second respondent.

4. The learned Government Advocate (Crl. Side) for the respondents would submit that the subject vehicle is liable to be seized under the provisions of the



W.P.(MD) No.16107 of 2024

Tamil Nadu Prohibition Act, 1937 for the offences under Section 4(1)(a), 14A of the Tamil Nadu Prohibition Act, 1937.

5. It is submitted that the show cause notice has been issued to the petitioner as early as 11.06.2024 and that the petitioner has also replied to the same on 14.06.2024.

6. It is submitted that subject to the out come of the aforesaid proceedings, the vehicle will be released.

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

8. The petitioner's name is not featured in the FIR in Crime No.262 of 2024 dated 01.06.2024 before the Prohibition Enforcement Wing, Kanyakumari. The Court is therefore, of the view that no useful purpose will be served by retaining the seized vehicle in the custody of the second respondent as it will deteriorate and depreciate on account of its non use. Therefore, to balance the



W.P.(MD) No.16107 of 2024

interests of the parties, the Court is inclined to order a provisional release of the vehicle of the petitioner, subject to the furnishing a security in the form of deposit of Rs.50,000/-. Subject to the deposit of the aforesaid amount before the jurisdictional Judicial Magistrate Court, the subject vehicle shall be provisionally released to the petitioner forthwith.

9. Needless to state, the aforesaid amount shall be adjusted and/or appropriated or refunded back to the petitioner, subject to the final outcome of the show cause proceedings. The respondents are directed to provisionally release the subject vehicle without prejudice to the right of the respondents in the proposed show cause proceedings. It is made clear that the vehicle shall not be transferred or altered without the permission of the respondents.

10. The petitioner shall co-operate with the respondents in the proposed enquiry.

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

Index : Yes / No
Internet : Yes / No
apd

19.07.2024



W.P.(MD) No.16107 of 2024

WEB COPY

To

1.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
O/o. the Additional Superintendent of Police,
Nagercoil, Kanniyakumari.

2.The Inspector of Police,
Nagercoil Prohibition Enforcement Wing,
Kanniyakumari.

Copy to:

The Judicial Magistrate, Poothapandi.



WEB COPY



W.P.(MD) No.16107 of 2024

C.SARAVANAN, J.

apd

W.P.(MD) No.16107 of 2024

19.07.2024