



W.P.(MD) No.25451 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.25451 of 2023

K.V.Shine Kumar

... Petitioner

Vs.

- 1.The Commissioner of Customs,
Office of the Commissioner
of Customs (Preventive)
No.1, Williams Road,
Cantonment, Tiruchirappalli.
- 2.The Joint Commissioner,
Office of the Commissioner
of Customs (Preventive)
No.1, Williams Road,
Cantonment, Tiruchirappalli.
- 3.Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.22/14, Selin Garden,
Roach Colony,
South Beach Road,
Thoothukudi.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the impugned order *vide* F.No.GEN/ADJ/Misc/255/2023-ADJN dated 12.09.2023 passed by the second respondent for provisional release of the petitioner's



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Car bearing Registration No.KL 19 E 5470 was not acceded and quashing the same as illegal and consequently directing the second respondent to provisional release of the petitioner's Car bearing Registration No.KL 19 E 5470 to his custody.

For Petitioner : Mr.M.Maran

For Respondents : Mr.N.Dilipkumar
Senior Standing Counsel

ORDER

The petitioner has filed this Writ Petition challenging the order dated 12.09.2023 bearing reference F.No.GEN/ADJ/Misc/255/2023-ADJN passed by the second respondent and praying to direct the second respondent to provisionally release the petitioner's car bearing Registration No.KL-19-E-5470 to his custody.

2. The petitioner is the owner of the subject vehicle namely, Toyota Innova Car bearing Registration No.KL-19-E-5470 which was involved in smuggling of Ambergris weighing to 18.100 kgs. The estimated value of the Ambergris is stated to be Rs.31,67,00,000/- in the international market.



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3. The vehicle was intercepted by the officers of the third respondent, Directorate of Revenue Intelligence, while it was being driven by the persons who claim themselves to be the friends of the petitioner. It is submitted that the petitioner has merely lent the vehicle which was used for smuggling Ambergris and the petitioner was unaware of the said smuggling of Ambergris.

4. It is submitted that Ambergris is listed under Sl.No.5A in Part II of Schedule 2 to the Wildlife Protection Act, 1972 which is prohibited for possession without licence and for export, and is liable for confiscation under the Customs Act, 1962 read with the Wildlife Protection Act, 1972.

5. This Writ Petition is opposed by the learned Senior Standing Counsel for the respondents on the ground that the subject car was involved in attempting to smuggle Ambergris which is a prohibited item and is liable for confiscation and therefore, this Writ Petition is liable to be dismissed.

6. It is further submitted that the question of provisional release of subject car does not arise as the provisional release of subject car is not



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permissible under the facts and circumstances of the case. The learned Senior Standing Counsel for the respondents therefore prayed for dismissal of this Writ Petition.

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

8. This Court is of the view that by seizing the vehicle and leaving it idle, no purpose will be achieved, as the vehicle depreciates in value due to lack of use. It is further noticed that subject vehicle is of the year 2014 and it is almost 10 years old.

9. Considering the same, this Court is inclined to direct the respondents to release the subject vehicle to the petitioner subject to the petitioner depositing 15% of the market value of the vehicle, as a security for release of the vehicle. The respondents shall obtain a valuation report of the vehicle and call upon the petitioner to furnish such security by depositing 15% of the market value of the vehicle to protect the interest of the Revenue.



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10. Needless to state that the release of the vehicle will be without prejudice to the rights of the respondents to proceed against the petitioner as the owner of the vehicle. It is also needless to state that the amount paid by the petitioner will be without prejudice to the rights of the petitioner in the proposed proceedings that are pending for alleged violation of provisions of Customs Act, 1962 and Wildlife Protection Act, 1972. The entire exercise is expected to be carried out within a period of 30 days from the date of receipt of a copy of this order.

11. Accordingly, this Writ Petition stands disposed of with the above directions. No costs.

19.06.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

JEN

Copy To:

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C.SARAVANAN, J.

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