



W.P.(MD).No.27443 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.27443 of 2024

P.Kannan

... Petitioner

Vs

1. The District Revenue Officer,
The Collector Office,
Viruthunagar.

2. The Inspector of Police,
Civil Supplies C.I.D.Madurai,
Viruthunagar, in Crime No. 164/2023.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to forthwith to release petitioner's vehicle bearing Registration no. TN 74 AW 1426 from their custody on the basis of the petitioner's representation dated 25.10.2024 within the time stipulated by this Court.

For Petitioner : Ms. B.Bhuvaneshvari
for M/s.Ganesan Legist Law Firm

For Respondents : Mr.S.Kameswaran (R1)
Mr.K.Gnanasekaran (R2)
Government Advocates



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ORDER

The present writ petition has been filed seeking a direction to the respondents to forthwith to release petitioner's vehicle bearing Registration no. TN 74 AW 1426 from their custody on the basis of the petitioner's representation, dated 25.10.2024.

2.By consent of both parties, considering the limited relief sought for by the petitioner, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.Heard, the learned counsel appearing for the petitioner and the learned Government Advocates appearing for the respondents. Perused the materials on record.

4.The petitioner has purchased a vehicle Mahindra Bolero City bearing registration number TN 74 AW 1426 and the same is a hypothecated vehicle. One Purushothaman utilized his vehicle for emergency purpose and on 19.10.2023, the petitioner came to know that the said vehicle was used for trafficking the PDS rice and later, came to know that his vehicle has been



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seized in Crime No. 164 of 2023 under Section 6(4) of the Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) Order, 1982 and Section 71(a)(2) of the Essential Commodities Act, 1955.

5.Under such circumstances, the petitioner made a representation to the respondents to release his vehicle from their custody. However the same is not considered. Hence, this writ petition came to be filed.

6.The learned Government Advocate appearing for the second respondent on instructions submitted that as early as on 17.05.2024, the first respondent has imposed a cost of Rs. 50,000/- to the petitioner and so far, he has not complied with the same.

7.Per contra, the learned counsel for the petitioner submitted that in this regard no communication has been received by the petitioner.

8.The said submission was contradicted by the learned Government Advocate, stating that District Revenue Officer had summoned the petitioner on 25.11. 2024 for enquiry and had sent the said communication by



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registered post. Despite the same, the petitioner failed to appear before the jurisdictional District Revenue Officer for enquiry.

9.It is pointed out by the learned counsel for the Petitioner that summons has been issued only to the accused persons in the aforesaid crime number. Since the petitioner was involved in the crime, summons has not been served to the petitioner. Hence, the contention of the second respondent that the summons has been served upon the petitioner is incorrect.

10.Perusal of the instructions submitted by the learned Government Advocate would reveal the fact that summons came to be served only against the three accused persons, namely Muthu, Shanmugaraj and Yuvanbharath in Cr.No.164 of 2024.

11.Though it is open for the respondent authorities to initiate confiscation proceedings, considering the nature of involvement of the petitioner in this case, this Court is concerned only with the issue of grant of interim custody of the vehicle to the petitioner. No purpose will be served in keeping the vehicle under the custody of the respondents.



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12. Similar matter has already been dealt with by this Court in **W.P(MD) No. 9214 of 2023**. This Court vide order, dated 07.06.2023 had allowed the petition. The relevant portion is extracted hereunder:

“5.The Hon'ble Supreme Court in the decision reported in (2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat) has held as follows:-

“17.In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

13. Therefore, the first respondent is directed to grant interim custody of the said vehicle to the petitioner subject to the following conditions:-

a) It is the considered view of this Court that the fine amount imposed by the first respondent to the petitioner, who is not involved in the crime is exorbitant. In view of the same, the



petitioner shall pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the credit of first respondent/District Revenue Officer in terms of the order passed by the first respondent, dated 17.05.2024 the fine amount is modified to that extent;

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

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

d) As and 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.

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



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15. Accordingly, the Writ Petition is allowed. I make it clear that allowing of this writ petition will not have any bearing on the confiscation proceedings that may be initiated by the authorities. There shall be no order as to costs.

18.11.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

PNM

To

1. The District Revenue Officer,
The Collector Office,
Viruthunagar.

2. The Inspector of Police,
Civil Supplies C.I.D. Madurai,
Viruthunagar, in Crime No. 164/2023.



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L.VICTORIA GOWRI, J.

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ORDER IN
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