

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

Present: E. Pravin Kumar, B.A.,B.L.,

Judicial Magistrate No.V, Madurai

Wednesday 6th day of January 2021

Crmp.No.1625/ 2020

Sekar,
S/o.Sundaram

...Petitioner/ Owner

vs

State rep. by Inspector of police,
Appanthirupathy Police Station,
Crime No.1304/2020
U/sec. 392of IPC

... Respondent/Complainant

For petitioner/accused: Tr.B.Rajesh, Advocate

For Respondent/Complainant: Mrs.R.Thilagarani,M.L.,Grade II Assistant Public
Prosecutor

06.01.2021

ORDER

1. This petition is filed U/s.457 and 451 Crpc for returning of the property viz Auto four wheeler bearing in Registration No.TN 59 AR 4620 is remanded in R.P.R.No.435/2020 as interim custody to the petitioner.

2. Notice issued and the prosecution has filed their reply.

3. The learned counsel for the petitioner would contend that the case property belonged to the petitioner. This petitioner is the defacto complainant. FIR was registered in Crime No.1304/2020 in the file of Appanthirupathy Police Station, for offence U/sec. 392 IPC and now the property is said to have been seized by the police and handed over in court. The property belongs to the petitioner. The Original RC Book is in the Sri Aiswariya Lakshmi Finance, Madurai. The property is a vehicle and if kept idle, the value of the vehicle will go down. Hence, the petitioner prays that this petition may be allowed..

4. On the other hand the prosecution has stated that as per IO' report this petitioner is a defacto complainant. If this property is returned to the petitioner. He may alienate the abovesaid property and he may not produced at the trial. Hence this petition may be dismissed.

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5. This court has taken into consideration all the above facts and circumstances of the case and gravity of offence, intimation letter given by Sri Aiswariya Lakshmi Finance, Madurai the property has been seized from this petitioner/accused. The property happens to be a motorized vehicle, if it is kept unused for a long time, the engine may get stuck up and the value of the property may get reduced and exposed to sun and light and its value would be deteriorated. Further the Hon'ble Supreme Court of India in the recent decision as reported in 2003(1) C.T.C page 175-Sundarbhai Ambalal Desai Vs.state of Gujarat has laid down certain guidelines to the Magistrates to hand over the properties at the pre-trial stage. Taking all the facts and circumstances of this case and guidelines issued by the Hon'ble Supreme Court of India it will be just and proper to hand over the property to the petitioner herein as interim custody. After all, the petitioner is going to hold the property in the capacity of a bailee or trustee.

6. In the result, the case property Viz for returning of the property viz Auto four wheeler bearing in Registration No.TN 59 AR 4620 is remanded in R.P.R.No.435/2020 is directed to be handed over to the petitioner herein as interim custody on the following conditions:

1. The petitioner shall produce the xerox copy of RC book before this court.
2. The petitioner shall produce the photograph of the property and panchanama.
3. The Petitioner/Owner has to execute bond for himself with one another surety for a sum of Rs.2,50,000/-each.
4. He shall not alienate or change the nature of the property without permission of this court.
5. He shall produce the same as and when required in court.

Dictated by me to the Steno-typist and typed by her in computer directly and corrected and pronounced by me in open court on this 6th day of January 2021

(sd-E.Pravinkumar)

Judicial Magistrate No. V,
Madurai.

