

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.1817/ 2020

Malayandi,
S/o.Jothimani

...Petitioner/ Owner

vs

State rep. by Inspector of police,
Appanthirupathy Police Station,
Crime No.1321/2020
U/sec. 147,143, 353 and 3 of TNPPDL Act

... Respondent/Complainant

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

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

06.01.2020

ORDER

1. This petition is filed U/s.457 and 451 Crpc for returning of the property viz Roayl Enfield Two wheeler bearing registration No. TN 59 BM 5692 remanded in R.P.R.No.448 /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 owner of the property in this case. FIR was registered in Crime No.1321/2020 in the file of Appanthirupathy Police Station, for offence U/sec. 147,143, 353 and 3 of TNPPDL Act and now the property is said to have been seized by the police and handed over in court. RC Book of vehicle stands in the name of previous owner form 29 filling by the owner and the petitioner submitted. Affidavit of previous owner stating no objection submitted. Further Order of Hon'ble Madurai Bench of Madras High Court in W.P.(MD)No.1229/2020 is also filed to support our claim, even when RC Book not change property can be returned. 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.

.2.

4. On the other hand the prosecution has stated that as per IO' report this property is important Material Object this crime was committing using of this property. In this stage, 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.

5. This court has taken into consideration all the above facts and circumstances of the case and gravity of offence, Form 29 in the name of petitioner and previous owner affidavit of no objection filed previous owner and order of Hon'ble High Court. The property happens to be a motorized vehicle, if it is kept unused for a long time, the engine may get struck 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 Suzuki Access Two wheeler bearing registration No. TN 58 BB 8660 remanded in R.P.R.No. /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.75,000/-each.

.3.

4. He shall not alienate or change the nature of the property without permission of this court.

5. Heshall 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.