

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

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

Judicial Magistrate No.V, Madurai

Thursday 27th day of August 2020

Crmp.No.630/ 2020

Manikandan

S/o.Ramar

...Petitioner/ Owner

vs

State rep. by Inspector of police,

Appanthirupathy Police Station,

Crime No.20/2020

U/sec.379 IPC

... Respondent/Complainant

For petitioner/accused: Mr.M.Ayyasamy, B.A., B.L., Advocate,

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

**27.08.2020.**

**ORDER**

1. This petition is filed U/s.457 and 451 IPC For returning of the property viz Royal Enfield Bullet bearing in Registration Number TN 59 BM 7205 remanded in R.P.R.No.252 /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 in this case. His vehicle was found missing. Hence, the petitioner registered complaint, in FIR in Crime No.20/2020 in the file of Appanthirupathy Police Station, for offence U/sec.379 IPC and now the property is said to have been seized by the police and handed over in court. 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 police report this petitioner is defacto complaint. And the property is TN BM 7205 Royal Enfiled Bullet. As this petitioner is a defacto complainant after due verification of ownership and identity of the above said property this Hon'ble court may be passed appropriate order. And condition may be imposed by this Hon'ble Court.

5. This court has taken into consideration all the above facts and circumstances of the case and the reply of the prosecution. 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. Royal Enfield Bullet bearing in Registration Number TN 59 BM 7205 remanded in R.P.R.No.252 /2020 is directed to be handed over to the petitioner herein as interim custody on the following conditions:

1. The petitioner shall produce the original 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.1,00,000/- 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 27th day of August 2020.

(S/d.E.Pravin kumar)  
Judicial Magistrate No. V,  
Madurai.

