

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

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

Judicial Magistrate No.V, Madurai

Thursday 24th day of september 2020

Crmp.No.711/ 2020

Pandi,
S/o.Manoharan

...Petitioner/ Owner

vs

State rep. by Inspector of police,
Karimedu Police Station,
Crime No.123/2020
PRC 102/2020
U/sec. 294(b), 324, 307, 506(2) IPC

... Respondent/Complainant

For petitioner/accused: Mr.Sasikumar,Advocate

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

24.09.2020.

ORDER

1. This petition is filed U/s.457 and 451 Crpc for returning of the property viz Honda Shine Two wheeler bearing a registration No. TN 58 AH 1648 remanded in R.P.R.No. 55/2020 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. The accused in this case has borrowed the vehicle of this petitioner and thus the vehicle has been implicated in this case and FIR was registered in Crime No.123/2020 in the file of Karimedu Police Station, for offence U/sec. 294(b), 324, 307, 506(2) IPC and now the property is said to have been seized by the police and handed over in court. The property mentioned in this petition is not involved in any way in this case. 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 petition is a accused of this case.This crime was committed using of this property. It is a important material object of this case. It this property is returned to the petitioner/ accused he may alienate the abvoe said property and he may not produced at thge tiral.And there is a chance

.2.

of committing same type of offence using of his property. Hence prosecution strongly object to return the property to the petitioner/accused. 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. 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 Honda Shine Two wheeler bearing a registration No. TN 58 AH 1648 remanded in R.P.R.No. 55/2020 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.70,000/-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 24th day of September 2020.

(Sd-E.Pravinkumar)

Judicial Magistrate No. V,
Madurai.

