

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

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

Judicial Magistrate No.V, Madurai

Friday 25th day of september 2020

Crmp.No.715/ 2020

P.J.Rajasekaran,  
S/o.Ponnuchamy

...Petitioner/ Owner

vs

State rep. by Inspector of police,  
S.S.Colony (crime)Police Station,  
Crime No.2063/2020  
U/sec. 379, 381IPC

... Respondent/Complainant

For petitioner/accused: Mr.A.Muniyandi,Advocate

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

**25.09.2020.**

**ORDER**

1. This petition is filed U/s.457 and 451 Crpc for returning of the property viz Bolero Van(Four Wheeler) bearing a registration No. TN 06 U 2965 remanded in R.P.R.No. 289/2020 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 petitioner is the owner of the property and Chairman Managing Director of Madras Security Services Private Ltd.The complainant registered by Mr.Ponram Branch Manager Madurai and there is no rival claim against the vehicle. FIR was registered in Crime No.2063/2020 in the file of S.S.Colony Police Station, for offence U/sec. 379, 381 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.

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4. On the other hand the prosecution in police and APP reply has stated that petitioner is the Managing Director of Madras Security Services Private Ltd and owner of property. Further, prosecution strongly object to return the property to the petitioner for the following reason. As per the police report accused Senthilkumar produce this vehicle through his acting driver Vijay. It is a important material evidence of prosecution case. In this stage if this property to the petitioner he may not produce at the trial. The accused may commit the same offence using of this property. This petitioner may alienate the above said property. 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, and the documents produced by petitioner he is the Managing Director of Madras Security Services Private Ltd. 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 Bolero Van(Four Wheeler) bearing a registration No. TN 06 U 2965 remanded in R.P.R.No.289/2020 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.10,00,000/-each.

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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 25th day of September 2020.

(Sd- E.Pravinkumar)  
Judicial Magistrate No. V,  
Madurai.