



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2015

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THE HONOURBLE MR.JUSTICE M.SATHYANARAYANAN

CrI.R.C.(MD).No.150 of 2015

Annapackiyam .. Revision petitioner/third party

Vs.

The State Rep. by
The Sub-Inspector of Police,
Aathur Police Station,
Tuticorin District.
(Cr.No.150 of 2013)

.. Respondent/Complainant

Criminal Revision Case is filed under Section 397(1) r/w 401 Cr.P.C. to call for the records in CrI.M.P.No.13196 of 2013 by the Learned Judicial Magistrate, Tiruchendur, Tuticorin District dated 29.10.2013 in so far as the condition No.1 of executing a sureties bond for Rs.7 Lakhs by the Petitioner himself and a bond for Rs.3.5 Lakhs each from two sureties to the satisfaction of the Judicial Magistrate, Tiruchendur to release the vehicle bearing reg. No.TN.59 T 4663 Mini Lorry, in connection with the Cr.No.150 of 2013 on the file of the respondent police U/s 379 IPC and 21(3) of mines and minerals Development Act 1959.

For Petitioner : Mr.D.Anbarasu

For Respondent : Mr.S.Prabha

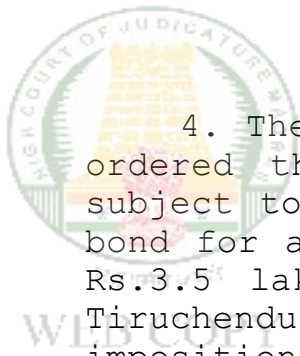
Government Advocate (crl. side)

ORDER

By consent, the revision is taken up for final disposal.

2. The petitioner is the registered owner of the Mahindra and Mahindra Goods Carrier bearing No.TN 59 T 4663 and according to her, her son without her knowledge, illegally transported river sand in the afore said vehicle and as against him a case has been registered in Crime No.150 of 2013 for the commission of offences punishable under Sections 379 IPC and 21(3) of Mines and Minerals Development Act, 1959 and the vehicle was seized on 01.08.2013.

3. The petitioner has filed CrI.M.P.No.13196 of 2013 on the file of the Court of Judicial Magistrate, Tiruchendur, Tuticorin District under Section 451 Cr.P.C. praying for interim custody of the vehicle saying that the vehicle has been parked in the open place and in view of non utilization, its value and utility is going down day by day and hence, prays for return of the same.



4. The trial court vide impugned order, dated 29.10.2013 has ordered the release of the vehicle by way of interim custody subject to condition that the petitioner shall execute a personal bond for a sum of Rs.7 lakhs with two sureties each for a sum of Rs.3.5 lakhs for the satisfaction of the Judicial Magistrate, Tiruchendur, Tuticorin District. The petitioner aggrieved by the imposition of such onerous condition, as filed this revision.

5. The learned counsel for the petitioner submitted that the petitioner is not the original owner and she has purchased the vehicle during the year 2009 and the vehicle was manufactured in the year 2003 and admittedly it is twelve years old and therefore, imposition of condition No.1 is highly onerous and prays for modification.

6. The Court heard the submissions of the learned Government Advocate (crl. side) who would submit that the trial Court has taken into consideration of the gravity of the offence has rightly imposed the condition.

7. This Court after considering the rival submissions and upon perusal of the impugned order, is of the view that the condition No.1 required modification.

8. The vehicle was manufactured in the year 2003 and the revision petitioner has purchased the vehicle during the year 2009 and admittedly she is not arrayed as an accused. This Court taking into consideration of the above facts, is of the view that the condition No.1 alone requires modification.

9. In the result, the revision is allowed and the condition No.1 is modified as follows:-

The petitioner shall execute a personal bond for a sum of Rs.1 lakh with one surety for the likesum to the satisfaction of the learned Judicial Magistrate, Tiruchendur, Tuticorin District. The remaining conditions shall remain unaltered.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Sub-Inspector of Police, Aathur Police Station, Tuticorin District.
 - 2.The Judicial Magistrate, Tiruchendur, Tuticorin District.
 - 3.The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai
- +One cc to Mr.D.Anbarasu, Advocate, SR.No.16592