

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.01.2019

CORAM

THE HON'BLE MR JUSTICE M. SATHYANARYANAN
AND
THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.P.No.395 of 2019

A. Govindaraj @ Govindasamy ... Petitioner

Vs

The Sub Collector,
Dharapuram,
Tiruppur District

... Respondent

Writ Petition filed under Article 226 of Constitution of India praying this Court to issue a Writ of Mandamus directing the respondent to release the Tipper Lorry bearing Registration No.TN-45-W-6278 seized by the Assistant Director of Mines, Tiruppur, Tiruppur District on 21.12.2018 to the petitioner.

For petitioner :Mr.C. Prakasam
For respondents :Mr.E. Manoharan
AGP

ORDER

(Order of the Court was made by M. SATHYANARAYANAN, J.,)

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner claims to be the owner of the Tipper Lorry bearing Registration TN-45-W-6278 and the vehicle was engaged for transporting sand. According to him, on 21.12.2018 when the vehicle was engaged by agriculturists for transport of gravel for leveling his land at Sivanmalai village, Kangayam Taluk, , it was seized by the Assistant Director of Mines, Tiruppur, Tiruppur District on the ground that the vehicle has been used for illegal transportation of sand and a case in Crime No.39 of 2018 was registered by the respondents for the alleged commission of offence punishable under Section 379 IPC r/w. Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957. The petitioner would state that he is no

way connected with the alleged commission of the said offences and the only allegation is that the quarry owner said to have forged the bills and as such, the petitioner cannot be mulcted with any criminal liability

3. The learned counsel appearing for the petitioner would submit that after seizure, the petitioner made a representation on 31.12.2018 before the respondents praying to release the vehicles but still the respondents have not released the lorry. The learned counsel appearing for the petitioner would further submit that the petitioner is eking out his livelihood out of the income earned from operating the vehicle and since the vehicle has been seized as early as on 21.12.2018 and parked in open space, there is likelihood of getting rusted or damaged on account of vagaries of weather and hence, the petitioner is left with no other alternative except to approach this Court by filing these writ petitions and therefore, prays for appropriate direction for release of the said vehicle.

4. Per contra, Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that the allegations in the F.I.R. are serious in nature and since a criminal case has also been registered, the vehicle cannot be released and prays for dismissal of this writ petition.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. This Court, upon hearing the rival submissions and on going through the materials, especially the averments made in the affidavit filed in support of these writ petition, is inclined to order the release of the vehicle, in question, by way of interim custody to the petitioner, subject to the following conditions:

- (i) The petitioner shall produce relevant documents before the respondent to establish the ownership of the vehicles in question;
- (ii) The petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten thousand Only) each to the credit of Cr.No.39 of 2018 on the file of the ***Court of the Judicial Magistrate, Kangayam**
- (iii) The petitioner shall give an undertaking that he will not use the vehicle for any other illegal/unlawful activities in future and he will not alienate/encumber the vehicle in question till the disposal of the proceedings before the authority concerned and he will produce the same as and when required by the respondents/jurisdictional police/jurisdictional Magistrate.

(iv) The petitioner shall also execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties in a like sum to the satisfaction of the respondent police/jurisdictional Magistrate.

7. On complying with the conditions imposed in this writ petition, the respondents are directed to release the vehicle bearing Registration No. No.TN-45-W-6278 to the petitioner forthwith. In case of violation of any of the conditions aforesaid, it is open to the respondent to initiate appropriate action for seizure of the vehicle.

8. The Writ Petitions are disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS VIII)

Dated: 07.02.2019

*** Corrected order
to be issued;**

sd/- Assistant Registrar(CS V)

Dated: 06.03.2019

//True Copy//

Sub Assistant Registrar

sr
To

1. The Sub Collector,
Dharapuram,
Tiruppur District

2. The Judicial Magistrate, Kangayam

+1cc to Mr.C.Prakasam, Advocate, S.R.No.20491

+1cc to the Government Pleader, S.R.No.7272

W.P.No.395 of 2019

GSP(07/02/2019)
SP(07/03/2019)

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