

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.827 of 2019

Munian

... petitioner

Vs

1. The Sub Collector,
District Collectorate,
Vilupuram District
Villupuram

2. The Inspector of Police,
Thirukovilur Police Station,
Thirukovilur,
Villupuram District

.. Respondents

Writ Petition filed under Article 226 of Constitution of India praying this Court to issue Writ of Mandamus directing the respondents to release and hand over the Tractor and Tractor bearing Registration No.TN-32-AJ-9191 to the petitioner.

For petitioner : Mr. G. Arul Murugan
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 Tractor and Tractor bearing Registration No.TN-32-AJ-9191 and the vehicle was engaged to take the gravel mud from the lake for the purpose of desalting and deepening the lakes. According to him, on 11.09.2018, when the tractor was filled with gravel mud, it was seized by the second respondent on the ground that the vehicle has been used for illegal transportation of sand and a case in Crime No.832 of 2018 was registered 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 is 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 before the third respondent on 26.12.2018 praying to release the vehicle, 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 11.09.2018 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 the 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 vehicle in question;
- (ii) The petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten thousand Only) each to the credit of Cr.No.832 of 2018 on the file of the respondents;
- (iii) The petitioner shall give an undertaking that he will not use the vehicles 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 respondents.

7. On complying with the conditions imposed in this writ petition, the respondents are directed to release the Tractor bearing Registration No.TN-32-AJ-9191 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.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

sr

To

1. The Sub Collector,
District Collector,
Vilupuram District
Villupuram

2. The Inspector of Police,
Thirukovilur Police Station,
Thirukovilur,
Villupuram District

+1 CC to Mr.G. Arulmurugan, Advocate sr 7248.

+1 CC to Govt. Pleader sr 7257.

W.P.No.827 of 2019

SP(05/02/2019)

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