

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2019

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.31453 of 2018

P.Manikandan

Petitioner

Vs.

The State Rep. By Inspector of Police,
Anaikaranchatram Police Station,
Anaikaranchatram,
Sirkazhi Taluk,
Nagapattinam District.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondent herein to release the petitioner's vehicle - Tipper Lorry bearing Registration Number TN-31AK-2916, Colour - HW Yellow, Engine Number CNHZ421396, Chasis Number MBIG3DYC6CHNE0328, which is a goods carrying Tipper lorry in accordance with law.

For Petitioner : Mr.M.R.Kuyilan

For Respondent : Mr.E.Manoharan,
Additional Government Pleader

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 absolute owner of the tipper lorry bearing Reg.No.TN-31AK-2916, Colour - HW Yellow, Engine Number CNHZ421396, Chasis Number MBIG3DYC6CHNE0328 and according to him, the said vehicle is used for carrying goods on hire and out of the income earned, he is eking out his livelihood. The petitioner was informed by one Mr.Mathimaran

that he is running a Savudu sand quarry in Alangadu Village of Sirkazhi Taluk after obtaining necessary permission from the District Collector, Nagapattinam and he purchased savudu sand from the said quarry on 28.10.2018 and transported the same in the said vehicle for his own use and however, it was seized by the respondent police and a case in Crime No.306 of 2018 was registered for the alleged commission of offences under Sections 379, 465, 468 and 420 I.P.C. 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. The petitioner has also filed CrI.M.P.No.Nil/2018 before the Judicial Magistrate Court, Sirkazhi under Sections 451 r/w. 457 CrPC for release of the vehicle and it was returned in the light of the common order dated 12.10.2018 made in W.P.(MD)Nos.7595 of 2018 and 19936 of 2017.

3. The learned counsel appearing for the petitioner would submit that in the light of the return of the said petition coupled with the fact that since the vehicle has been seized as early as on 28.10.2018 and parked in open space, there is likelihood of getting rusted or damaged on account of vagaries of weather, the petitioner is left with no other alternative except to approach this Court by filing this writ petition and therefore, prays for appropriate direction.

4.Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of the respondent, 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. A perusal of the F.I.R would disclose that the petitioner has not been arrayed as accused, but the fact remains that he has also invoked the jurisdiction of the competent Court by filing a petition under Section 451 r/w. 457 CrPC for release of the vehicle and it was returned citing the common order dated 12.10.2018 made in W.P.(MD)Nos.7595 of 2018 and 19936 of 2017. It is brought to the notice of this Court that the said order also came to be clarified subsequently in the common order dated 11.01.2019 made in WMP.(MD)22023 of 2018 etc., batch wherein a clarification has been granted that pending appropriate orders for constitution of Special Courts, the writ petition for release of the vehicle may be entertained by invoking Article 226 of the Constitution of India and it was also made clear that

the said liberty is also subject to the Constitution of the Special Courts.

7. In the light of the above facts and circumstances, this Court 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;

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(ii) **The petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the credit of Crime No.306 of 2018 on the file of the Court of Judicial Magistrate, Sirkali.**

(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 respondent police/jurisdictional Magistrate.

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

8. On complying with the conditions imposed in this writ petition, the respondent is directed to release the Tipper Lorry bearing Registration Number TN-31AK-2916, Colour - HW Yellow, Engine Number CNHZ421396, Chassis Number MBIG3DYC6CHNE0328 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;

9. This Writ Petition is disposed of accordingly. No costs.

Sd/-

Deputy Registrar

Dated: 07/02/2019

*** Corrected as per the Order
of this Court dated 25/02/2019,
made in WP.No.31453/2018**

Sd/-Assistant Registrar

Dated 27/02/2019

//True Copy//

Sub Assistant Registrar

Jvm

To

The Inspector of Police,
Anaikaranchatram Police Station,
Anaikaranchatram,
Sirkazhi Taluk,
Nagapattinam District.

To be Substituted to
the Order already
despatched on 22/02/2019

+lcc to Mr.R.Kuyilan, Advocate Sr.7336/**17467**
+lcc to the Government Pleader Sr.7267/**17622**

W.P.No.31453 of 2018

srg 07/02/2019

GN(27/02/2019)



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