

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2019
CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.32030 of 2018

P.Elumalai .. Petitioner

Vs.

The Inspector of Police,
Sholavaram Police Station,
Thiruvallur District. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondent to release the lorry bearing Reg.No.AP 26 TJ 0799 forthwith by accepting the provisional fine.

For Petitioner : Mr.R.Jayaprakash

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 owner of the Tipper Lorry bearing Reg.No.AP-26 TJ 0799, Engine Number JFPZ112365, Chassis Number MB1NACHD5JPED1980 and according to him, he was carrying Silica sand after obtaining permit by way of e-payment dated 27.10.2018, which was valid up to 04.11.2018 and when the vehicle carrying 6 Units of river sand was nearing Coimbatore on 01.11.2018, it was seized by the respondent police on the ground that Silica sand has been transported illegally without any valid permission and a case in ***Crime No.721 of 2018** was registered for the alleged commission of offences under Sections 379, 417 and 430 I.P.C and under Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents

and would submit that in the light of overwhelming materials made available, it cannot be said that Silica sand has been illegally transported and since the vehicle has been seized as early as on 01.11.2018 and parked in open space, there is likelihood of getting rusted or damaged on account of vagaries of weather and therefore, the petitioner is left with no other alternative except to approach this Court by filing this writ petition praying for appropriate direction.

4. Per contra, Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of the respondent, would submit that on account of illegal transportation of Silica sand without any valid permission/authorization, the respondent has rightly registered the case and therefore, opposed the release of the vehicle.

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

6. This Court, in the light of the submissions made coupled with the facts and circumstances, 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.50,000/- (Rupees Fifty Thousand Only) to the credit of Crime No.721 of 2018 on the file of the learned District Munsif Cum Judicial Magistrate, Gummudipoondi.**

(ii) 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.

(iii) 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.

7. On complying with the conditions imposed in this writ petition, the respondent is directed to release the Tipper Lorry bearing Reg.No.AP-26 TJ 0799, Engine Number JFPZ112365, Chassis Number MB1NACHD5JPED1980 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. This Writ Petition is disposed of accordingly. No costs.

-s/d-

Deputy Registrar

***Corrected as per the order
of this court dated 21/02/19 made
in WP.32030/18
Assistant Registrar(CS III)**

True Copy

Sub-Assistant Registrar

Jvm

To
The Inspector of Police,
Sholavaram Police Station,
Thiruvallur District.

***To be Substituted to the order
already dispatched on 21/02/2019**

+1 CC to Govt. Pleader sr 7271.

***1cc to Mr.R.Jayaprakash, Advocate sr.no.16151**

W.P.No.32030 of 2018

SP(13/02/2019)
nr 26/02/2019