

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.32670 of 2018

K.Govindhan

..Petitioner

Vs.

1.The Sub Collector,
Sub-Collector Office,
Tindivanam.

2.The Tahsildhar,
Tindivanam.

3.The Inspector of Police,
Tindivanam Police Station,
Tindivanam.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the third respondent to release the lorry bearing Registration No.TN21-M-1199 based on representation dated 12.10.2018 in a time frame fixed by this Court.

For Petitioner : Mr.N.Chinnaraj

For Respondents : 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 Tipper Lorry bearing Reg.No.TN21-M-1199, Engine Number UDH310166, Chassis Number TDH094173 and according to him, his vehicle has been seized by the 2nd respondent and handed over to the 3rd respondent on the ground that it was found transporting M-sand without any authorization/permit and a case in Crime No.976 of 2018 was

registered for the alleged commission of offence under Section 379 I.P.C and Sections 21(1) and 36(A) of the Mines and Minerals (Development and Regulation) Act, 1957 and MMDR Rules. In this regard, the petitioner has also submitted a representation dated 12.10.2018 to the first respondent requesting for return of the vehicle and however it is yet to be favoured with any kind of response.

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 invoice bill as well as supplier bill dated 10.10.2018 are available and therefore, it cannot be said that M-sand has been illegally transported and since the vehicle has been seized as early as on 11.10.2018 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 M-sand without any valid permission/authorization, the respondent has rightly seized the vehicle and 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 respondents to establish the ownership of the vehicle in question;
- (ii) The petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) to the credit of Crime No.976 of 2018 on the file of the 3rd respondent Police ;
- (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 respondents/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.TN21-M-1199, Engine Number UDH310166, Chassis Number TDH094173 to the petitioner forthwith. In case of violation of any of the conditions aforesaid, it is open to the respondents to initiate appropriate action for seizure of the vehicle. It is also made clear that this Court has not ordered the release of contraband said to have been transported in the said vehicle.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Jvm

To

- 1.The Sub Collector,
Sub-Collector Office,
Tindivanam.
- 2.The Tahsildhar,
Tindivanam.
- 3.The Inspector of Police,
Tindivanam Police Station,
Tindivanam.

+1cc to Mr.N.Chinnaraj, Advocate, S.R.No.7530
+1cc to the Government Pleader, S.R.No.7273

W.P.No.32670 of 2018

RK(CO)

rrs 20/02/2019

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