

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.32128 of 2018

G.Krishnan ... Petitioner

Vs.

The Inspector of Police,
Mailam Police Station,
Tindivanam Taluk,
Villupuram 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 vehicle bearing Registration No.TN-32 AD 0736 which was seized by the respondent on 23.08.2018 and the same is kept in the respondent's premises to the petitioner by considering the petitioner's representation dated 15.11.2018.

For Petitioner : Mr.A.Ilaya Perumal

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 Bolero Van bearing Reg.No.TN-32 AD 0736, Engine Number TADIG92286, Chassis Number MAIZP2TAKDIG56875 and according to him, his vehicle has been seized by the respondent police on 23.08.2018 on the pretext that the vehicle was found transporting river sand without any valid permission and a case in Crime No.432 of 2018 was registered for the alleged commission of offence under Section 36(A) of the MMDR Rules. In this regard, the petitioner

has also submitted a representation dated 15.11.2018 to the 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 in the light of overwhelming materials made available, it cannot be said that river sand has been illegally transported and since the vehicle has been seized as early as on 23.08.2018 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 river 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 respondent to establish the ownership of the vehicle in question;
- (ii) The petitioner shall deposit a sum of ***Rs.40,000/- (Rupees Forty Thousand Only)** to the credit of Crime No.432 of 2018 ***pending** on the file of the ***Court of the Judicial Magistrate No.1, Tindivanam;**
- (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.

7. On complying with the conditions imposed in this writ petition, the respondent is directed to release the Bolero Van bearing Reg.No.TN-32 AD 0736, Engine Number TADIG92286, Chassis Number MAIZP2TAKDIG56875 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. 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(CCC)

Dated : 20/02/2019

***Amended as per order
dated 22/03/2019 made in
WMP No.7758/19 in WP No.32128/18**

Sd/-

Assistant Registrar(CCC)

Dated : 26/03/2019

//True copy//

Sub Assistant Registrar

Jvm

To
to

**Corrected order to be substituted
as already despatched on 12/03/2019**

***The Judicial Magistrate,
Judicial Magistrate No1,
Tindivanam.**

The Inspector of Police,
Mailam Police Station,
Tindivanam Taluk,
Villupuram District.

+1cc to Mr.A.Ilayaperumal, Advocate SR.No.7698

W.P.No.32128 of 2018

AK(CO)
GMY(22/02/2019)