

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.32481 of 2018

Senthilkumar .. Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep by its Secretary,
Non Ferrous Mining and
Metallurgical Industries,
Ezhilagam, Chennai-600 005.

2.The District Collector,
Cuddalore District.

3.The Sub-Collector,
Cuddalore.

4.The Inspector of Police,
Ramanatham Police Station,
Cuddalore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents particularly the Sub-Collector, Cuddalore and the Inspector of Police, Ramanatham Police Station the 3rd and 4th respondents herein to release the lorry bearing registration No.TN 48 AE 6465 of the petitioner, the same was seized by the fourth respondent on 28.09.2018 on the Trichy to Chennai National Highways nears Lakkur J.S.A. Agriculture College for the alleged transportation of illegal sand in the lorry.

For Petitioner : Mr.K.Balakrishnan

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.TN-48 AE 6465, Engine Number GDEZ406467, Chassis Number MBIHTDFD8GEDU7676 and according to him, the driver of the lorry, without his knowledge, had used the same for illegal transportation of sand and on 28.09.2018, the fourth respondent has seized the petitioner's vehicle on the ground that it was found transportation river land without any valid permission and a case in Crime No.195 of 2018 was registered for the alleged commission of offence under Section 379 IPC and Section 21(1)(2) of the Mines and Minerals (Development and Regulation) Act, 1957.

3. Mr.K.Balakrishnana, learned counsel appearing for the petitioner would submit that the petitioner has been falsely implicated and at no point of time, the petitioner has illegally transported river sand and would further state that for the first time, the petitioner came to be involved in criminal case and since the vehicle has been seized as early as on 28.09.2018 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. सत्यमेव जयते

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 3 and 4 to establish the ownership of the vehicle in question;
- (ii) The petitioner shall deposit a sum of Rs.25,000/- (Rupees

Twenty Five Thousand Only) to the credit of Crime No.195 of 2018 on the file of the fourth respondent;

- (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 jurisdictional 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.TN-48 AE 6465, Engine Number GDEZ406467, Chassis Number MBIHTDFD8GEDU7676 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(CO)

//True copy//

Sub Assistant Registrar

Jvm

To

- 1.The Secretary,
The Government of Tamil Nadu,
Non Ferrous Mining and Metallurgical Industries,
Ezhilagam, Chennai-600 005.
- 2.The District Collector,
Cuddalore District.
- 3.The Sub-Collector, Cuddalore.

4.The Inspector of Police,
Ramanatham Police Station,
Cuddalore District.

+1cc to Mr.K.Balakrishnan, Advocate SR.No.7161

+1cc to Government Pleader, High Court, Madras SR.No.7262

W.P.No.32481 of 2018

PPA (CO)
GMY (26/02/2019)



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