

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.32686 of 2018

Sampath ... Petitioner

Vs.

- 1.The Revenue Divisional Officer,
Office of Revenue Divisional Office,
Mannarkudi, Thiruvarur District.
- 2.The Tahsildar,
Thiruthuraipoondi Taluk,
Thiruvarur District.
- 3.The Inspector of Police,
Edaiyur Police Station,
Thiruvarur District. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to release the tipper lorry bearing Registration No.TN-20 BS 2239 within a time frame as may be fixed by this Court.

For Petitioner : Mr.S.Seenuvasan

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.TN20-BS-2239, Engine Number 180HP01E62880890, Chassis Number MAT448091AJE08223 and according to him, the driver namely Thiru Suresh took his vehicle at about 10.00 p.m on 18.09.2018 for his personal use and later on, he became aware of the fact that the said vehicle has been seized by the third respondent on the ground of alleged transportation of two units of river sand without any valid permit/authorization and a case in Crime No.109 of 2018 was registered for the alleged commission of offence under Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957. In this regard, the petitioner has also submitted a representation dated 25.09.2018 to the respondents 1 and 2 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 18.09.2018 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.

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.50,000/- (Rupees Fifty Thousand Only) to the credit of Crime No.109 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.TN20-BS-2239, Engine Number 180HP01E62880890, Chassis Number MAT448091AJE08223 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(CCC)

//True copy//

Sub Assistant Registrar

Jvm

To

1.The Revenue Divisional Officer,
Office of Revenue Divisional Office,
Mannarkudi, Thiruvarur District.

2.The Tahsildar,
Thiruthuraipoondi Taluk,
Thiruvarur District.

3.The Inspector of Police,
Edaiyur Police Station,
Thiruvarur District.

+1cc to Mr.S.Seenivasan, Advocate SR.No.7816

+1cc to Government Pleader SR.No.7276

W.P.No.32686 of 2018

AK(CO)

GMV(22/02/2019)