



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8849 of 2019

WEB COPY

Chandra Babu

... Petitioner

Vs

1. The Revenue Divisional Officer,
Padmanabhapuram, at Thuckalay,
Kanyakumari District.

2. The Inspector of Police,
Vellichanthai Police Station,
Vellichanthai,
Kanyakumari District.
(Crime No.21/2019)

3. The Assistant Director,
Tamil Nadu Mines and Minerals,
Nagercoil, Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents herein to release the TATA 407 TIPPER vehicle, bearing Registration No.TN 74 AR 2026 seized by the second respondent herein, pertaining to the case in Crime No.21 of 2019 on the file of the second respondent herein and return the vehicle to the petitioner.

For Petitioner : Mr.A.Thiruvadikumar

For Respondents : Mr.K.Mu.Muthu

Additional Government Pleader

ORDER

The petitioner's vehicle was seized in connection with illegal transportation of sand. Seeking its release, this writ petition has been filed.

2.When the matter was taken up for hearing, the learned Additional Government Pleader pointed out that already one previous case is pending against the writ petitioner for the very same offence.

3.The learned counsel for the petitioner submitted that Crime No.2 of 2019 was registered against the petitioner on the file of the Mandaikadu Police Station. The petitioner filed an application under Section 451 of Cr.P.C and got the vehicle released. Within one week, the second respondent had booked the second case namely Crime No.21 of 2019.



4. The learned counsel for the petitioner would contend that in order to frustrate the order passed by the judicial Magistrate, the second First Information Report has been registered.

WEB COPY

5. I am not in a position to conclude that the second First Information Report has been falsely registered. But taking note of the fact that the second First Information Report has been registered within a short time after an order was passed in favour of the petitioner, this Court directs the respondents to release the petition mentioned vehicle subject to the following conditions:-

- a) The petitioner shall deposit a sum of Rs.50,000/- to the concerned District Mineral Foundation Trust. He shall execute an affidavit of undertaking that he shall not involve in any offence in future that may lead to the seizure of the vehicle in question. The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.
- b) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle.
- c) This order for release of the vehicle can be pressed into service by the petitioner only if the vehicle is not in the custody of the criminal Court. If the vehicle is in the custody of concerned Criminal Court of appropriate jurisdiction, then, option is given to the petitioner to approach the concerned Judicial Magistrate to get release of the vehicle, by filing necessary application in the manner known to law.
- d) As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.

6. Upon completion of these formalities, the respondents shall release the vehicle forthwith without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future.

7. The Writ Petition is allowed accordingly. No costs.

sd/
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)



To

1. The Revenue Divisional Officer,
Padmanabhapuram, at Thuckalay,
Kanyakumari District.
2. The Inspector of Police,
Vellichanthai Police Station,
Vellichanthai,
Kanyakumari District.
3. The Assistant Director,
Tamil Nadu Mines and Minerals,
Nagercoil, Kanyakumari District.

Copy to:

The Officer In-Charge,
District Mineral Foundation Trust,
Kanyakumari District

+1 CC to Mr.A.THIRUVADI KUMAR, Advocate (SR-63879[F] dated
29/04/2019)
+1 CC to SPL GP (SR-65019[F] dated 02/05/2019)

W.P.(MD)No.8849 of 2019
29.04.2019

rmk
MK/SAR 2/15.05.2019/3P/7C