

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CRIMINAL PETITION No.2273 of 2019

ORDER:

The petitioner is the owner of a JCB Vehicle, bearing registration No.TS-07-AP-TR-7623. This vehicle was allegedly used in the illegal transportation of sand leading to registration of Crime No.93 of 2019 on the file of Jammikunta Police Station, registered under Section 379 IPC and Section 21(4) of the Mines and Minerals Development Regulation Act, 1957, wherein the petitioner was arrayed as A.6. The petitioner-A.6 filed CrI.M.P.No.834 of 2019 in Crime No.93 of 2019 before the learned II Additional Judicial Magistrate of First Class, Huzurabad, seeking release of the vehicle under Section 451 Cr.P.C. By order dated 02.04.2019, the Court below dismissed the criminal miscellaneous petition. Aggrieved thereby, the petitioner-A.6 filed the present criminal petition under Section 482 Cr.P.C.

Sri K.Laxman, learned counsel for the petitioner-A.6, would point out that in terms of the policy decision of the Government of Telangana, as set out in G.O.Ms.No.15, Industries and Commerce (Mines-I) Department, dated 19.02.2015, any vehicle involved in illegal extraction and transportation of sand was to be levied penalty as detailed in para 12(2) therein. In terms of the tabular statement in the aforesaid para, a JCB, being machinery, would be liable to pay penalty of Rs.50,000/- for the first offence and Rs.1,00,000/- for the second one. Learned counsel would therefore state that the Court below ought to have directed release of the vehicle in accordance with the Government's policy decision.

It appears that the petitioner's vehicle has been under seizure since February, 2019. No purpose would be served in allowing the said vehicle

to lie idle in the custody of the police. It would only gather dust and fall into disrepair. This Court is therefore of the opinion that it is a fit case to direct release of the vehicle on payment of penalty.

The criminal petition is accordingly allowed directing the petitioner's JCB to be released upon deposit of a penalty of Rs.1,00,000/- to the credit of Crime No.93 of 2019 before the learned II Additional Judicial First Class Magistrate, Huzurabad, and it is stated that a charge sheet has already been laid in Crime No.93 of 2019 and the CC number is awaited. The petitioner shall also furnish a personal bond for a sum of Rs.1,00,000/- to the learned II Additional Judicial First Class Magistrate, Huzurabad, undertaking that he will not use the released JCB for illegal transportation of sand.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

JUSTICE SANJAY KUMAR

Date:01.05.2019

Note:

Furnish CC in two days.
(B/o) PGS