

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.R.C.No.355 of 2020

Sakthivel

..Petitioner/Petitioner/Accused

Vs.

The State Rep. by Inspector of Police,
Thiruvankadu Police Station,
Nagappattinam District.
(Crime No.10 of 2020)

..Respondent/Respondent/Complainant

Prayer:- This Petition is filed under section 397 read with 401 of Cr.P.C., to call for the records in Crl.M.P.No.465 of 2020 on the file of District and Sessions Judge, Nagapattinam and set aside the same subsequently grant interim custody of Vehicle Tractor along with Trailor bearing registration No.TN 82 Y 3928.

For Petitioner : Mr.N.Chinnaraj

For Respondent : Mr.K.Prabakar,
Additional Public Prosecutor

ORDER

This criminal revision has been filed seeking to set aside the order dated 11.02.2020 passed by the learned District and Sessions Judge, Nagappattinam in Crl.M.P.No.465 of 2020.

2.The respondent police seized the vehicle viz., Tractor along with trailer bearing Registration No.TN 82 Y 3928 (belonging to the petitioner) for the alleged illegal sand mining and arrested the driver and registered a case in Crime No.10 of 2020 on 19.01.2020 under Sections 379 and 430 IPC read with Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957. Seeking return of the vehicle, the petitioner, being the owner filed Crl.M.P.No.465 of 2020 before the learned District and Sessions Judge, Nagapattinam and the said petition was dismissed by order dated 11.02.2020, challenging which, the present petition has been filed.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent State.

4. Learned Additional Public Prosecutor submitted that there is no previous case against the petitioner nor this vehicle involved in any other case earlier. Though the reasons given by the trial Court in dismissing the petition cannot be faulted, yet, this Court is of the view that if the vehicle remains in the custody of the police indefinitely, it will get deteriorated.

5. In view of the guidelines given by the Supreme Court in *Sunderbhai Ambalal Desai Vs. State of Gujarat* [(2002) 10 SCC 290], this Court is of the view that interests of justice will be served, if the vehicle is ordered to be released to the petitioner on certain stringent conditions. The respondent police is directed to grant interim custody of the said tractor bearing Registration No. TN 82 Y 3928 along with trailer to the petitioner within a period of 7 days from the date of compliance of the below mentioned conditions:

- i. the petitioner shall deposit a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) before the jurisdictional Tahsildar as non-refundable deposit. After receipt of the above said amount, the same will have to be deposited by the Tahsildar, to the credit of the District Mines and Minerals Foundation trust as non-refundable deposit;
- ii. the petitioner shall execute a personal bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the District and Sessions Judge, Nagapattinam. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;
- iii. the petitioner shall give an undertaking before the respondent/ authority concerned stating that he will not use the vehicle in question for any illegal activities in future and shall produce the same as and when required by the respondent and also the trial Court, failing which the respondent/trial Court is at liberty to confiscate the vehicle;

iv.the petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned;

v. the petitioner shall take photograph of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872;

vi.the petitioner shall surrender the original R.C. book before the District and Sessions Judge, Nagapattinam. ; and

vii.the petitioner is also directed to participate in the enquiry to be conducted by the respondent.

viii. It is also made clear that after release of the vehicle on complying with the conditions imposed by this court, if the said vehicle is found to be involved in any of the offence, it is always open to the respondent to proceed further for confiscation.

ix.Petition relating to return of R.C. Book for any purpose in the future, may be filed before the District and Sessions Judge, Nagapattinam, who may consider the same on merits.

6. By setting aside the order impugned herein, this petition is allowed in the above terms.

Sd/-

Assistant Registrar (C.S.VI)

/True Copy/

Sub Assistant Registrar

To:

- 1.The District and Sessions Judge, Nagapattinam.
- 2.The Inspector of Police,
Thiruvenkadu Police Station, Nagapattinam District.
3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.N.Chinnaraj, Advocate, SR.No.18020

AKM/11.03.2020 /3P-5C/

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