

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.435 of 2020

Gnanasekaran,
S/o.Dhandapani,
East Street,
Kizhkangayan Kuppam,
Panruti Taluk,
Cuddalore District.

.. Petitioner

Vs.

State represented by
The Inspector of Police,
Manalmedu Police Station,
Nagapattinam District.

.. Respondent

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the order dated 05.03.2020 passed in Crl.M.P.No.781
of 2020 on the file of the District and Sessions Court,
Nagapattinam District.

For Petitioner : Mr.E.Kannadasan
For Respondent : Mr.K.Madhan
Government Advocate
(Crl.Side)

O R D E R

This case is taken up through video conferencing.

2. This criminal revision has been filed seeking to set
aside the order dated 05.03.2020 passed in Crl.M.P.No.781 of
2020 on the file of the District and Sessions Court,
Nagapattinam District.

3. It is the case of the prosecution that on 02.12.2019,
while two units of river sand was being illegally transported by
lorry bearing Registration No.TN 42 F 5117, the
respondent/police intercepted the same and arrested
Venkatachalam (A1) and Gnanasekaran (A2) and seized the lorry

with the sand. Thereafter, a case in Crime No.254 of 2019 was registered on 02.12.2019 for the offence under Section 379 IPC and Section 21 (1) of the Mines and Minerals (Development & Regulation) Act, 1957, against Venkatachalam (A1) and Gnanasekaran (A2). The arrested accused were subsequently released on bail. While so, the petitioner, filed Crl.M.P.No.781 of 2020 in Crime No.254 of 2019 before the District and Sessions Court, Nagapattinam, under Section 451 Cr.P.C. for return of vehicle and the same was dismissed on 05.03.2020, aggrieved by which, the petitioner is before this Court.

4. Heard Mr.E.Kannadasan, learned counsel for the petitioner and Mr.K.Madhan, learned Government Advocate (Crl.Side) for the respondent/State.

5. On instructions, Mr.K.Madhan, learned Government Advocate (Crl.Side) submitted that there is no previous case pending against the petitioner.

6. Taking into consideration the fact that the seizure was effected on 02.12.2019 and the vehicle is kept in the police station open to sun and rain, applying the law laid down by the Supreme Court of India in *Sunderbhai Ambalal Desai vs. State of Gujarat*¹, this Court is of the view that interests of justice will be served if the interim custody of the vehicle is given to the petitioner. Of course, this Court is in complete agreement with the views expressed by the Sessions Judge that illegal sand mining will lead to other serious consequences including depletion of water resources. The fact that the vehicle is lying in the police station since the seizure i.e., for the last seven months weighs with this Court for granting interim custody.

7. As a result, this revision petition is allowed by setting aside the order dated 05.03.2020 passed in Crl.M.P.No.781 of 2020 on the file of the District and Sessions Court, Nagapattinam District and interim custody of the vehicle to the petitioner is granted with the following conditions:

¹ (2002) 10 SCC 290

- (i) The petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty 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, Nagapattinam as non-refundable deposit;
- (ii) The petitioner shall execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) 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.

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, though this order has been passed by the High Court.

Sd/-
Asst.Registrar

/true copy/
Sub Asst. Registrar

nsd
To

1. The District and Sessions Judge,
Nagapattinam District.
2. The Inspector of Police,
Manalmedu Police Station,
Nagapattinam District.
3. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

copy to
The District Mines and Minerals
Foundation Trust
Nagapattinam

Cr1.R.C.No.435 of 2020

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