

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

CrI.O.P.No.19917 of 2020

Ramesh
S/o, Chinnusamy,
7/9, Kolathur,
Ariyur,
Mohanur Thaluk,
Namakkal District.Petitioner

-Vs-

State rep by
The Inspector of Police,
Mohanur Police. Respondent
Cr.No. 381/2020

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to set aside and modify the conditions imposed by the Sessions Judge, Namakkal in C.M.P.No.931 of 2020 dated 05.10.2020 in Crime No.381 of 2020 pending trial on the file of the Inspector of Police, Mohanur Police Station.

For Petitioner : Mr.C.D.Johnson

For Respondent : Ms.M.Prabhavathi
Additional Public Prosecutor

O R D E R

Seeking to set aside and modify the conditions imposed by the Sessions Judge, Namakkal in C.M.P.No.931 of 2020 dated 05.10.2020 in Crime No.381 of 2020 pending on the file of the respondent, the petitioner has come forward with this Criminal Original Petition.

2. According to the petitioner, he is the owner of vehicle said to be involved in Crime No.381 of 2020 on the file of the respondent police and seeking for the return of the same, the petitioner has preferred the C.M.P.No.931 of 2020. The abovesaid vehicle had been seized by the respondent police on the footing that the same had been utilised for the purpose of illegal sand mining.

3. According to the petitioner, he or his vehicle is not involved in Crime No.381 of 2020 and hence pending disposal of the investigation and trial, his vehicle should be handed

over to him for his livelihood and for seeking the interim custody of the vehicle, he had assured that he would abide by all the conditions that may be imposed by the court and accordingly sought for the return of the vehicle.

4. The abovesaid petition has been resisted by the respondent contending that the vehicle had been utilised for the purpose of illegal sand mining to get illegal profit from the river bed without any proper permission or authority and also without any proper valid documents and hence according to them, only as per law, the vehicle had been seized and steps had been taken to confiscate the vehicle as per the procedures contemplated under law and hence sought for the dismissal of the petition.

5. The Court below on an appreciation of the rival contentions putforth by the respective parties and the materials placed on record, was pleased to entertain the petition preferred by the petitioner after taking into consideration of the various guidelines enunciated by the Hon'ble Apex Court and Hon'ble High Court in the various decisions and resultantly ordered the interim custody of the vehicle on conditions. One of the condition imposed by the court for the interim custody of the vehicle to the petitioner reads as follows:

"(i) the petitioner shall deposit a sum of Rs.1,50,000/- (Rupees One lakh and fifty thousand only) before the jurisdictional Tahsildar as non-refundable deposit. After receipt of the abovesaid 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."

6. It is the abovesaid condition which the petitioner seeks to set aside and urge the modification of the same. According to the petitioner, by imposing the abovesaid condition, the court below had pre-judged the issue and therefore the same is liable to be set aside and further the abovesaid condition is onerous.

7. Per contra, according to the respondent, the Court below had properly appreciated the contentions putforth by the respective parties and imposed various conditions for the interim custody of the vehicle and therefore no interference is required with reference to the same.

8. As above pointed out, when the petitioner sought for the interim custody of the vehicle, he had agreed to abide by all the conditions that may be imposed by the court for entrusting the custody of the vehicle. Having agreed to be bound over by all the conditions imposed by the court, while seeking the interim custody of the vehicle and when prima facie, the prosecution has placed the materials to hold that the vehicle involved in the matter is utilised for lifting the

sand from the river beds without license and authority for gaining illegal profit and as the investigation is still pending with reference to the same, in all, taking into consideration, the value of the vehicle, the nature of the crime, usage of the abovesaid vehicle for the illegal purpose, the court below had imposed the above condition as well as the other conditions. In such view of the matter, I do not find any valid reason to set aside and modify the same and on the other hand, I find that the above said condition along with other conditions had been correctly and rightly imposed by the court below, taking into consideration the various factors involved in the crime and the safe custody of the vehicle during the pendency of the investigation and the trial. In such view of the matter, the argument put forth by the petitioner that the court below had pre-judge the issue and the abovesaid condition imposed by the court below is burdensome, as such, cannot be countenanced.

9. In the light of the abovesaid factors, I do not find any valid reason to set aside and modify the conditions imposed by the court below while ordering the interim custody of the vehicle to the petitioner in C.M.P.No.931 of 2020 dated 05.10.2020 in Crime No.381 of 2020 pending investigation on the file of the respondent Police.

10. Resultantly, the Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Inspector of Police,
Mohanur Police.

2. The Sessions Judge,
Namakkal.

3. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.19917 of 2020

SPD(CO)
GN(07/01/2021)