



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE **G.R. SWAMINATHAN**

W.P. (MD) No. 7316 of 2020

WEB COPY

Dinesh Kumar

... Petitioner

Vs

1. The Superintendent of Police,
Madurai City,
Madurai District.

2. The Inspector of Police,
T. Kalluppatti Police Station,
Madurai District.

3. The Additional Director,
Mines and Minerals Department,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to release the Tipper Lorry bearing Registration No. TN 21 CC 6145 from the custody of the 2nd respondent on the basis of the petitioner's representation dated 20.06.2020 within a stipulated time that may be fixed by this Court.

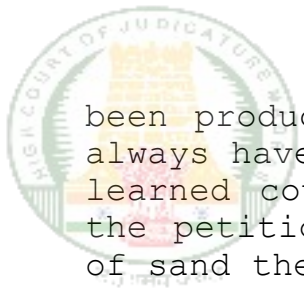
For Petitioner : Mr. M. M. Iqbal
For Respondents : Mr. M. Rajarajan
Government Advocate

ORDER

Heard the learned counsel on either side. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner's grievance is that the petition mentioned vehicle was seized by the respondents on the allegation that it was involved in illegal transportation of Karambai Sand. In this regard, FIR has been registered by the jurisdictional police. The petitioner seeks its release.

3. When the matter was taken up for admission, I posed a specific question as to whether the vehicle has been produced before the Jurisdictional Court. It appears that the vehicle is yet to be produced before the Jurisdictional Court. The case is still under investigation. I am of the view that so long as the vehicle has not



been produced before the Jurisdictional Court, the Writ Court will always have the power to direct for the release of the vehicle. The learned counsel for the petitioner affirms before this Court that the petitioner's vehicle was not involved in any previous incident of sand theft or illegal transportation of sand.

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4. The submission of the learned counsel for the petitioner is placed on record. If this submission turns out to be false, the order now passed by this Court would stand recalled and the petitioner will be visited with serious consequences. I am of the view that keeping the petition mentioned vehicle in the custody of the respondents is not going to serve any purpose. The Hon'ble Supreme Court in the decision reported in **(2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat)** has held as follows:-

"17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

5. Therefore, the respondents are directed to release the said vehicle subject to the following conditions:-

- a) The petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) 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. The Writ Petition is allowed accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Superintendent of Police,
Madurai City,
Madurai District.
2. The Inspector of Police,
T.Kalluppatti Police Station,
Madurai District.
3. The Additional Director,
Mines and Minerals Department,
Madurai District.
4. The Officer incharge,
District Mineral Foundation Trust,
Madurai.

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SGS (CO)

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