



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2020

CORAM:

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

W.P. (MD) No. 7865 of 2020

R.Kalimuthu

... Petitioner

Vs

1.The Assistant Director,
Mines and Minerals Department,
Office of the Collectorate,
Ramanathapuram,
Ramanathapuram District.

2.The Inspector of Police,
Abiramam Police Station,
Abiramam, Kamuthi,
Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent to release the petitioner's vehicles namely., JCB bearing Registration No.TN 65 AY 2563 and Tipper Lorry bearing Registration No.TN 65 AV 0504 seized by the 2nd respondent on 21.04.2020 vide Crime No.135 of 2020 on the file of the 2nd respondent.

For Petitioner : Mr.N.Sudalaimuthu

For Respondents : Mrs.S.Srimathy,
Special Government Pleader

O R D E R

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 petition mentioned vehicles were seized by the second respondent in connection with the alleged illegal transportation of sand.

3.The learned Special Government Pleader states that even though the criminal case has been registered, the vehicles in question are yet to be produced before the jurisdictional Court. The case is still under investigation. I am of the view that so long as the vehicles have not been produced before the



Jurisdictional Court, the Writ Court will always have the power to direct for the release of the vehicles.

4. The petitioner's counsel gives an undertaking that the petitioner will see to it that the vehicles are not involved in any other offences of similar nature. The vehicles will be produced before the authority or the Court concerned as and when required. The learned counsel appearing for the petitioner states that the vehicles will not be alienated.

5. The submission of the learned counsel for the petitioner is placed on record. If the undertaking given before this Court is breached, the benefit of this order will stand recalled and the vehicles in question will be taken back to custody and it will be released only after getting orders from this Court on such terms as this Court may deem it fit to impose.

6. I am of the view that keeping the petition mentioned vehicles 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.

7. Therefore, the respondents are directed to release the said vehicles subject to the following conditions:-

- a) The petitioner shall take a Demand Draft for a sum of Rs.1,00,000/- (Rupees One Lakh only) in the name of the District Collector, Ramanathapuram District. It will be a non-refundable payment. The District Administration will also spend the same immediately on some welfare measures and send the user certificate to the Registry of this Court. The petitioner shall not alienate or encumber the vehicles till the proceedings are completed.
- b) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicles.
- c) As and when the respondents call for the vehicles for enquiry, the petitioner has to produce the vehicles in question and he shall cooperate with the enquiry to be conducted by the respondents.



8. Upon completion of these formalities, the respondents shall release the vehicles forthwith without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicles in future. The Writ Petition is allowed accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-II)

// 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 Assistant Director,
Mines and Minerals Department,
Office of the Collectorate,
Ramanathapuram, Ramanathapuram District.
- 2.The Inspector of Police,
Abiramam Police Station,
Abiramam, Kamuthi,
Ramanathapuram District.
- 3.The District Collector, Ramanathapuram.

copy to
The Registrar(Judicial),
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.N.SUDALAIMUTHU, Advocate (SR-13194
[F] dated 23/07/2020)

W.P. (MD) No. 7865 of 2020

22.07.2020

avs(CO)

TR(28.07.2020) 3P 6C