



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2020

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

W.P. (MD)No.8789 of 2020

WEB COPY

Arjunan

... Petitioner

Vs.

1.The Revenue Divisional Officer,  
The Revenue Divisional Office,  
Sivagangai-630 562.

2.The Assistant Director,  
Geology and Mining Department,  
Sivagangai-630 562.

3.The Inspector of Police,  
Manamadurai Police Station,  
Manamadurai-630 606.

... Respondents

**Prayer:** Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to release the petitioner's Tipper Lorry in bearing Registration No.TN-07-W-3463 from the custody of the third respondent on the basis of the petitioner's representation dated 29.07.2020 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Senthilkumar  
For Respondents : Mr.M.Rajarajan  
Government Advocate

### O R D E R

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

2. The petition mentioned vehicle was seized in connection with the alleged illegal transportation of sand.

3. When this matter was taken up for hearing, the learned Government Advocate opposed this writ petition by pointing out that the petitioner is involved in a previous case. Hence, this Court wanted to know the fate of the case. After verifying the same with the respondents, the learned Government Advocate submitted that the earlier case ended in acquittal. Therefore, the earlier case cannot be put against the petitioner. He further states that even though the criminal case has been registered, the vehicle in question 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.

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

7. Normally, when this Court orders release of vehicle, it imposes payment of certain costs. But, in the case on hand, the vehicle has been in the custody of the respondents for more than seventeen months. Hence, taking note of the fact that the vehicle is in the long custody of the respondent and the petitioner has already suffered a loss, I refrain from imposing costs.

8. The learned counsel for the petitioner states that the vehicle is still standing in the name of the vendor and the name has not been changed. However, he is having the original documents. The respondents are directed to release the vehicle in question notwithstanding the fact that the name has not been changed subject to the following conditions:-

- a) 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) As and when the respondents call for the vehicle for



enquiry, the petitioner has to produce the vehicle in question and she shall cooperate with the enquiry to be conducted by the respondents.

8. 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 (CSII)

// 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 Revenue Divisional Officer,  
The Revenue Divisional Office,  
Sivagangai-630 562.
- 2.The Assistant Director,  
Geology and Mining Department,  
Sivagangai-630 562.
- 3.The Inspector of Police,  
Manamadurai Police Station,  
Manamadurai-630 606.

+1 CC to M/s.GP ( SR-13831[F] dated 07/08/2020 )

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KB(17.08.2020) 3P 5C