



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.8873 of 2020

P.Saravanakumar

...Petitioner

Vs.

1.The Deputy Director,
Mines and Minerals Department,
Office of Collectorate Premises,
Madurai.

2.The Inspector of Police,
Karupayurani Police Station,
Madurai District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to release the lorry of the petitioner bearing registration No.TN 48 K 4858.

For Petitioner

: Mr.C.M.Arumugam

For Respondents

: Mr.P.Mahendran

Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner seeks release of the petition mentioned vehicle.

3. The learned Additional Government Pleader opposed the grant of relief sought for by the petitioner. He 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 the release of the vehicle. He also pointed out that the petitioner is having bad antecedents.



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, this Court would impose payment of cost for granting such relief. The learned counsel appearing for the petitioner seriously disputed the stand of the respondents that there was illegal transportation of sand. This Court wanted the petitioner to produce materials in support of this contention. The petitioner's counsel drew my attention to the contents of the First Information Report itself. The First Information Report in Crime No.600 of 2020 registered on the file of the Karuppayoorani Police Station itself states that the petitioner on the strength of the transit pass that enabled him to transport sand within Sivagangai District had illegally brought it into the Madurai District for the purpose of selling at a higher purchase. A copy of the transit pass has also been enclosed in the typed set of papers at Page No.4. It is seen there from that an endorsement has been made to enable the petitioner to transport sand upto Madurai District. Therefore, I am prima facie satisfied that there has been no illegal transportation of sand. However, this observation is made only for the purpose of not imposing any cost in these proceedings. This will not in any way cast any reflection on the registration of the case or investigation. That will go on independently. Since I am satisfied on the prima facie case there was no illegal transportation of sand,



I refrain from imposing any cost in this Writ Petition. Therefore, the respondents are directed to release the said vehicle 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 he 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 (CrI.Side)

// True Copy //

/ /2020

Sub Assistant Registrar

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 Deputy Director,
Mines and Minerals Department,
Office of Collectorate Premises, Madurai.
- 2.The Inspector of Police,
Karupayurani Police Station,
Madurai District.

+1 CC to M/s.GP (SR-14788[F] dated 24/08/2020)

ORDER MADE IN
W.P. (MD) .No.8873 of 2020
21.08.2020

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<https://hmcjcs7.ecourts.gov.in/CaseView/4C>