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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.08.2020
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.9653 of 2020

Vijay @ Vijaykumar ... Petitioner

Vs.

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Thanjavur District.

2.The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur District.

3.The Assistant Director,
Tamilnadu Mines and Minerals,
Thanjavur District. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to release the petitioner's bullock-cart, pertaining to the case in Cr.No.295/2019 on the file of the second respondent herein and return the vehicle to the petitioner based on his representation dated 07.08.2020.

For Petitioner : Mr.K.M.Karunakaran
For Respondents : Mr.C.Ramar
Additional 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 vehicle was seized in connection with alleged illegal transportation of sand.

3.The learned Additional Government Pleader 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.

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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.Therefore, the respondents are directed to release the said vehicle forthwith and 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-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

dss/msa

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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.

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To:

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2.The Inspector of Police,
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3.The Assistant Director,
Tamilnadu Mines and Minerals,
Thanjavur District.

+1 CC to SGP (SR-14689[F] dated 21/08/2020)

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