



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.12004 of 2020

M.Thangapandi

... Petitioner

Vs.

1.The District Revenue Officer,
O/o District Revenue Officer,
Tirunelveli District.

2.The Inspector of Police,
Sankarankovil Taluk Police Station,
Tirunelveli District.
Cr.No.143/2020.

3.The Assistant Director,
Geology and Mining,
Collectorate Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to release the petitioner's Tipper Lorry bearing Registration No. TN 59 AH 5392 based on his representation dated 31.08.2020 within the time limit that may be stipulated by this Court.

For Petitioner	:	Mr.P.Balamurugan
For Respondent	:	Mr.C.Ramar
		Additional Government Pleader.

O R D E R

Heard the learned counsel on either side.

2. The petitioner seeks release of the petition mentioned vehicle. The second respondent registered Crime No.143 of 2020 for the offence under Section 379 IPC against the petitioner herein and another person. The petitioner's counsel has enclosed the Transit pass in the typed set of papers. It is valid for the period from 24.08.2020 to 30.08.2020. The vehicle in question was seized on 25.08.2020 at 10.00am, well within the validity period.

3. The learned Government Advocate 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. Further, The petitioner has *prima facie* produced proof to show that



the transportation in this case is not illegal. Therefore, I refrain from imposing any cost to the petitioner.

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. 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. I make it clear that the order granting interim custody of the vehicle will not have any bearing on the prosecution. The Writ Petition is allowed accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (CO)

WEB COPY

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vrn

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 District Revenue Officer,
O/o District Revenue Officer,
Tirunelveli Distict.
- 2.The Inspector of Police,
Sankarankovil Taluk Police Station,
Tirunelveli District.
- 3.The Assistant Director,
Geology and Mining,
Collectorate Tirunelveli District.

+1 CC to M/s.GP (SR-17723[F] dated 22/09/2020)

W.P. (MD)No.12004 of 2020

21.09.2020

SCR(CO)

AP(29/09/2020) 3P 5C