



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.12034 of 2020

Ramesh

... Petitioner

Vs.

1. The Assistant Director.,
Geology and Mines,
Dindigul District.

2. The Revenue Divisional Officer,
Palani,
Dindigul District

3. The Inspector of Police
Kallimandayam Police Station,
Dindigul District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents and their subordinates to release the Tipper Lorry bearing Registration No.TN-63-AB-5590 seized on 04.09.2020 by the 3rd respondent and which is now under his custody, to the petitioner.

For Petitioner : Mr.D.Venkatesh

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 the 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.

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 learned Additional Government Pleader informs the Court that the petitioner is having as many as three previous cases all of which pertain to I.P.C., offences and not related to sand theft.

8. Therefore, the respondents are directed to release the said vehicle subject to the following conditions:-

- a) *The petitioner is directed to pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) in favour of the Officer-in-Charge, High Court Legal Services Committee, Madurai Bench of Madras High Court, Madurai, S.B.A/c.No.496037387, IFSC : IDIB000H040, Indian Bank, High Court Branch, Madurai. It will be a non refundable payment. The Registrar (Judicial) is directed to spend the amount for appropriate welfare activities such as feeding the disadvantaged communities in Madurai District.*



- b) The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.
- c) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle.
- d) 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.

9. 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/
18/09/2020

This petition having been posted on Monday the Twenty Eighth day of September Two Thousand and Twenty (28.09.2020) FOR BEING MENTIONED, in pursuance to the order of this Court dated 18/09/2020 and made herein in the presence of the abovesaid Advocate, this Court made the following order:

This writ petition has been listed under the caption "For Being Mentioned."

2.The petition mentioned vehicle was seized by the respondents on 04.09.2020. The writ petition was filed on 15.09.2020, for obtaining release of the vehicle. The writ petition came up for disposal on 18.09.2020. On the said date, the writ petition is allowed by putting the petitioner on terms. The petitioner has complied with the terms also. But the vehicle could not be released, because, in the meanwhile, the vehicle came to be produced before the Judicial Magistrate, Ottanchatiram and RPR Number has also been assigned for this vehicle.

3. Inasmuch as the order directing release was passed before the vehicle was produced before the Jurisdictional Magistrate and since the petitioner has also complied with the terms imposed by this Court, I direct the learned Judicial Magistrate, Ottanchatiram, to permit the petitioner to take the vehicle in terms of the order already passed.



4.Registry will issue the supplementary order today itself.

WEB COPY

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

ias

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 Judicial Magistrate, Ottanchatiram.
2. The Assistant Director.,
Geology and Mines,
Dindigul District.
3. The Revenue Divisional Officer,
Palani, Dindigul District
4. The Inspector of Police
Kallimandayam Police Station,
Dindigul District.

Copy to :

- 1.The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai.
- 2.The Officer Incharge,
High Court Legal Services Committee,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.GP (SR-17552[F] dated 21/09/2020)

W.P. (MD)No.12034 of 2020

18.09.2020

al (CO)

TR(28.09.2020) 4P 8C