



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.13506 of 2020

WEB COPY

Thangeswaran

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Sivakasi Taluk, Virudhunagar District.

2.The Tahsildar,
Srivilliputhur Taluk,
Virudhunagar District.

3.The Assistant Director of Mines and Geology,
Virudhunagar District, Virudhunagar.

4.The Inspector of Police,
Thiruthangal Police Station,
Virudhunagar District.
(Crime No.1126 of 2020)

... 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 vehicles, namely, JCB, Tractor and Trailer, bearing registration No.TN 95 C 8411 and TN 67 AK 3691 respectively, and to hand over the above vehicles to the petitioner within the time limit that may be stipulated by this Court, based on the petitioner's representation dated 19.09.2020.

For Petitioner	:	Mr.M.Prabhakaran for M/s.M.Viji
For Respondents	:	Mr.M.Rajarajan, Additional Government Pleader

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 petitioner seeks release of the petition mentioned vehicles. They were seized in connection with Crime No.1126 of 2020 registered on the file of the Thiruthangal Police Station, Virudhunagar District.

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 petitioner's counsel submits that the vehicles were engaged by the Panchayat President. He has enclosed a copy of the letter dated 15.09.2020 issued by the Panchayat President. In the said letter, there is a reference to the Panchayat resolution. According to the petitioner's counsel, the vehicles were engaged only in connection with Panchayat works.

8. Since prima facie materials have been placed to indicate that the vehicles were not involved in any illegal activity, I am inclined to grant relief without putting the petitioner on terms. However, I make it clear that the petitioner cannot take advantage of this order in any other collateral proceedings. The First Information Report registered against the petitioner will independently be investigated. This order will not cast any shadow on the investigation.

9. In the FIR, trailer's registration number is not mentioned.



The petitioner has to produce the necessary ownership document such as invoice and take the vehicle after satisfying the respondents.

10. 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.*

11. 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 (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

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,
Sivakasi Taluk, Virudhunagar District.
 2. The Tahsildar, Srivilliputhur Taluk, Virudhunagar District.
 3. The Assistant Director of Mines and Geology,
Virudhunagar District, Virudhunagar.
 4. The Inspector of Police,
Thiruthangal Police Station, Virudhunagar District.
- +1 CC to M/s.GP (SR-19065[F] dated 05/10/2020)

W.P. (MD) No.13506 of 2020

01.10.2020

SS (CO)

AP (12/10/2020) 3P 6C

<https://hls.caserecord.gov.in/caserecord>