



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.16037 of 2020

Symon @ Sabi

... Petitioner

Vs

1.The Assistant Director,
Tamil Nadu Mines and Minerals Department,
Kanyakumari District,Nagercoil.

2.The District Revenue Officer,
Kanyakumari District,Nagercoil.

3.The Inspector of Police
C.S.C.I.D., Kuzhithurai Police Station,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to release the petitioner's Ashok Leyland (Dost) Mini Tempo bearing Registration No.TN-75-AA-0624 seized by the third respondent Police in connection with Crime No.129 of 2020 dated 08.09.2020, on the basis of the petitioner's representation dated 14.10.2020.

For Petitioner	:	Mr.T.Selvakumaran
For Respondents	:	Mrs.M.Rajeswari
		Government Advocate

ORDER

(This Petition was heard through Video Conferencing)

This writ petition has been filed to direct the respondents to release the petitioner's Ashok Leyland (Dost) Mini Tempo bearing Registration No.TN-75-AA-0624 seized by the third respondent Police in connection with Crime No.129 of 2020 dated 08.09.2020, on the basis of the petitioner's representation dated 14.10.2020.

2. Heard Mr.T.Selvakumaran, learned counsel appearing for the petitioner and Mrs.M.Rajeswari, learned Government Advocate appearing for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. It is the case of the petitioner that he is the owner of the aforementioned vehicle. According to the petitioner, the third respondent seized his vehicle on 08.09.2020 alleging that the vehicle was used to transport ration rice worth about Rs.30,910/- (Rupees Thirty Thousand Nine Hundred and Ten only) and a case was registered in Crime No.129 of 2020 for the alleged offence under



Section 6(4) of TNSC (RDCS) Order 1982 r/w. 7(1)(a)(ii) of Essential Commodities Act, 1955. After seizure of the vehicle, the said vehicle is still in the custody of the third respondent Police.

4. It is the contention of the petitioner that he is never involved in any illegal transportation of ration Rice as alleged by the Police and he has not committed any prior criminal offence. According to the petitioner, the seized vehicle is now being kept in the open place and due to exposure of sun and rain and the vagaries of nature, the vehicle will loss its value and may, ultimately become a wreck and worthless. In such circumstances, this Writ Petition has been filed seeking for release of the said vehicle.

5. The petitioner has also given a representation on 14.10.2020 to the third respondent seeking for release of the said seized vehicle. According to the petitioner, the said representation has not been considered by the third respondent till date. As rightly contended by the petitioner, if the vehicle, which was seized by the third respondent, is kept in the open place, it will not be useful to anyone in the near future and if it is continued to remain in the open place, it has to face the vagaries of nature and ultimately will become a wreck and worthless. However, whether the petitioner has committed the alleged offence or not can be adjudicated only after trial before the Criminal Court. Till such time, the vehicle cannot be kept idle. Therefore, this Court is inclined to grant an order as sought for by the petitioner in this Writ Petition, subject to the fulfillment of the following conditions by the petitioner.

"(i) Since it is the case involving seizure of ration Rice, the petitioner cannot give security by way of bond, in stead will have to give cash security. Accordingly, the petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five thousand only) with the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order.

(ii) the petitioner shall give an unconditional undertaking to the first respondent that he shall not alienate or encumber the vehicle in question without permission of the Jurisdictional Magistrate till the completion of the confiscation proceedings

(iii) the petitioner shall not change the colour and scheme of the vehicle.

(iv) the petitioner shall not use the vehicle for any illegal activities.

(v) before releasing the vehicle, the police authority



shall take photographs of the vehicle at the cost of the petitioner.

(vi) The petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicle to the second respondent.

(vii) 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."

6. Upon completion of the above mentioned formalities, the respondents shall release the vehicle viz., Ashok Leyland (Dost) Mini Tempo bearing Registration No.TN-75-AA-0624 to the petitioner 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. However, if there is any confiscation proceedings initiated against the seized vehicle, the same can go on without any interference.

7. The Writ Petition is disposed of accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Mrn

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 Assistant Director,
Tamil Nadu Mines and Minerals Department,
Kanyakumari District, Nagercoil.

2. The District Revenue Officer,
Kanyakumari District, Nagercoil.

3. The Inspector of Police ,C.S.C.I.D.,
Kuzhithurai Police Station, Kanyakumari District.

+1 CC to M/s.T.SELVAKUMARAN, Advocate (SR-21970[F] dated 11/11/2020)

+1 CC to M/s.GP (SR-22047[F] dated 18/11/2020)

W.P. (MD)No.16037 of 2020

11.11.2020

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