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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.12.2020**

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.17781 of 2020

K.Kanagaraj .. Petitioner

Vs.

1.The Revenue Divisional Officer,
D.R.O.Office,
Thanjavur, Thanjavur District.

2.The Assistant Director,
Tamil Nadu Mines and Minerals Department,
Thanjavur, Thanjavur District.

3.The Sub-Inspector of Police,
Thiruvaiyaru Police Station,
Thiruvaiyaru, Thanjavur District. .. Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the respondents to release the petitioner's vehicle viz., TATA BENZ HALF BODY LORRY bearing registration No.TN-22-C-4545 seized by the 3rd respondent on 16.08.2017.

For Petitioner : Mr.R.Sakthivel
For Respondents : Mr.C.Ramesh
Special Government Pleader

ORDER

(This petition was heard through video conference)

This writ petition has been filed for a Mandamus seeking for a direction to the respondents to release the petitioner's vehicle namely TATA BENZ HALF BODY LORRY bearing registration No.TN-22-C-4545, forthwith.

2. Mr.C.Ramesh, learned Special Government Pleader, accepts notice 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 vehicle namely TATA BENZ HALF BODY LORRY bearing registration No.TN-22-C-4545. According to him, on 16.08.2017, third respondent seized the vehicle and registered a case in Crime No.277 of 2017 for the offence punishable under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulations) Act, 1957, alleging that the petitioner has illegally transported sand in his vehicle. According to him, ever since the seizure, the vehicle is still in the custody of the third respondent Police and till date, no

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confiscation proceedings have been initiated against the seized vehicle.

4. It is also the contention of the petitioner that the vehicle has also not been produced by the third respondent Police before the concerned Jurisdictional Court. According to him, the seized vehicle is kept idle in the Police Station premises in the open place and exposed to the vagaries of nature, resulting in the vehicle depreciating in value.

5. According to the petitioner, he gave a representation to the respondents for releasing of the seized vehicle back to him. According to him, the respondents have failed to respond to the said representation. In such circumstances, he has filed this Writ Petition seeking for release of the seized vehicle.

6.Admittedly, the vehicle was seized by the third respondent on 16.08.2017 and a case has been registered in Crime No.277 of 2017 for the offence punishable under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulations) Act, 1957, alleging that the petitioner has illegally transported sand in his vehicle. Admittedly, the vehicle is now in the Police Station premises and kept in the open place and exposed to the vagaries of nature and has also not been produced before the Jurisdictional Court.

7. As rightly contended by the learned counsel appearing for the petitioner, the vehicle will certainly depreciate in value, if it is allowed to remain in the open place and kept idle for a long period of time. No useful purpose will be served if the vehicle is allowed to be kept idle. In similar matters, this Court has granted release of seized vehicles to the respective petitioners subject to fulfillment of certain conditions. Therefore, this Court is inclined to grant similar relief to the petitioner subject to fulfillment of the following conditions:-

(i)the petitioner shall execute a bond for a sum of **Rs.25,000/-(Rupees twenty five Thousand only)** *in favour of the first respondent within a period of two weeks from the date of receipt of a copy of this order.*

(ii)the petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.

(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

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copies of the documents pertaining to the ownership of the seized vehicle to the first 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.

8. Upon completion of the above mentioned formalities, the respondents shall release the vehicle namely TATA BENZ HALF BODY LORRY bearing registration No.TN-22-C-4545 to the petitioner forthwith and without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled for interim release of the vehicle in the future.

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

Sd/-

Assistant Registrar (CSIII)

// True Copy //

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Sub Assistant Registrar(CS)

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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.*

To

1.The Revenue Divisional Officer,
D.R.O.Office,
Thanjavur, Thanjavur District.

2.The Assistant Director,
Tamil Nadu Mines and Minerals Department,
Thanjavur, Thanjavur District.

3.The Sub-Inspector of Police,
Thiruvaiyaru Police Station,
Thiruvaiyaru, Thanjavur District.

+1 CC to M/s.SPL GP (SR-24653[F] dated 09/12/2020)

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TP(CO)
KB(16.12.2020) 3P 5C

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