



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.18412 of 2020

(Through Video Conference)

S.Balamurugan

... Petitioner

Vs

1.The Revenue Divisional Officer,
Thanjavur, Thanjavur District.

2.The Inspector of Police,
Vattathikottai Police Station,
Thanjavur District.

3.The Assistant Director,
Mines and Minerals Department,
Thanjavur 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 Tipper Lorry bearing its registration No.TN 22 BV 5788 to the petitioner forthwith in connection with the case in Crime No.1260 of 2020 on the file of the second respondent by considering petitioner's representation dated 30.11.2020.

For Petitioner : Mr.P.Pitchaimuthu

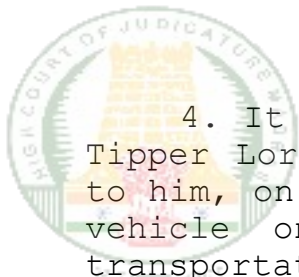
For Respondents : Mr.C.Ramesh,
Special Government Pleader

O R D E R

This writ petition has been filed for a Mandamus to direct respondents to release the petitioner's Tipper Lorry bearing its registration No.TN 22 BV 5788 to the petitioner forthwith in connection with the case in Crime No.1260 of 2020 on the file of the second respondent by considering petitioner's representation dated 30.11.2020.

2. Heard Mr.P.Pitchaimuthu, learned counsel appearing for the petitioner and Mr.C.Ramesh, learned Special Government Pleader appearing for the respondents.

3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.



4. It is the case of the petitioner that he is the owner of the Tipper Lorry bearing its registration No.TN 22 BV 5788. According to him, on 29.11.2020, the second respondent seized the petitioner's vehicle on the allegation that it was used for the illegal transportation of sand and thereafter, a case was registered in Crime No.1260 of 2020 for the alleged offence under Section 379 of IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. The petitioner's vehicle was seized by the second respondent Police on the same date.

5. It is the contention of the petitioner that the Tipper Lorry bearing its registration No.TN 22 BV 5788, has also not been produced by the second respondent Police before the concerned Jurisdictional Court. 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 lose 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 Tipper Lorry bearing its registration No.TN 22 BV 5788.

6. The petitioner has also given a representation on 30.11.2020 to the respondents seeking for release of the said Tipper Lorry bearing its registration No.TN 22 BV 5788. According to the petitioner, the said representation has not been considered by the respondents till date. As rightly contended by the petitioner, if the said vehicle, which was seized by the second 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, 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 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 vehicles 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 first respondent; and



(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.

7. Upon completion of the above mentioned formalities, the respondents shall release the Tipper Lorry bearing its registration No.TN 22 BV 5788 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. As far as confiscation proceedings initiated against the seized vehicle is concerned, the same can go on without any interference.

8. The Writ Petition is disposed of accordingly. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

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,
Thanjavur, Thanjavur District.
- 2.The Inspector of Police,
Vattathikottai Police Station, Thanjavur District.
- 3.The Assistant Director,
Mines and Minerals Department, Thanjavur District.

+1 CC to M/s.GP (SR-25749[F] dated 16/12/2020)

Order made in

W.P. (MD) No.18412 of 2020

Dated: 15.12.2020

mj (CO)

TR(28.12.2020) 3P 5C