

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2021

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.4223 of 2021

M.Nehru

.. Petitioner

vs.

State Represented by
The Inspector of Police,
Redhills Police Station,
Tiruvallore District.
(Cr.No.744/2019)

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify the condition order on condition that the petitioner is also directed to deposit a sum of Rs.50,000/- before the jurisdictional Thasildar concerned and on deposit, the said amount as to be deposit by the jurisdictional Thasildar concerned to the credit of District mines and minerals foundation trust as non-refundable deposit imposed by the learned Principal District and Sessions Judge, Tiruvallore in Crl.M.P.No.1346 of 2020 in Cr.No.744 of 2019 dated 30.09.2020.

For Petitioner : M/s.E.Senthilnathan

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

This petition has been filed seeking for modification of the condition imposed by the court below wherein the petitioner has been directed to deposit a sum of Rs.50,000/- as a condition for the return of vehicle to the petitioner.

2. Heard Mr..E.Senthilnathan, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the respondent.

3. Learned counsel for the petitioner submitted that M-sand was carried in the vehicle pursuant to the permission granted by the concerned authority and the same is very clear from the Transit Pass that was issued in favour of the petitioner on 17.12.2019. It was submitted that this material document was not taken into consideration by the court below and the court below has mechanically proceeded to impose a condition directing the petitioner to deposit a sum of Rs.50,000/-.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the validity of the Transit Pass relied upon by the petitioner is also under scrutiny in the course of investigation.

Learned counsel further submitted that in all cases involving theft of sand, cash deposit is insisted in order to ensure that the vehicle does not again involve in a similar offence.

5. This Court has carefully considered the submissions made on either side and materials available on record.

6. The petitioner is the owner of the vehicle and the vehicle has been used to transport M-sand. It is seen from the Transit Pass issued in the name of the petitioner on 17.12.2019 that the petitioner has been permitted to carry M-sand in the vehicle. When the vehicle was in transit, it was intercepted and it was found to carry M-sand without any authorization.

7. The petitioner being the owner of the vehicle and also having obtained necessary permission to transport M-sand, this Court deems it fit to interfere with the cash deposit that was imposed as a condition by the court below. In appropriate cases, where there are prima facie materials to show that the mineral has been carried in the vehicle, with permission, such onerous condition should not be insisted. However, it will depend upon the facts and circumstances of each case.'

8. In the result, the order passed by the court below is modified and the condition imposed, directing the petitioner to deposit a sum of Rs.50,000/- before the jurisdictional Tahsildar is set aside. The other conditions imposed by the court below shall stand as it is.

10. This Criminal Original Petition is disposed of accordingly.

09.03.2021

Speaking Order/Non-Speaking Order

Index : Yes/No

Internet : Yes/No

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To

1. The Principal District and Sessions Judge,
Tiruvallore.
2. The Inspector of Police,
Redhills Police Station,
Tiruvallore District.
3. The Public Prosecutor,
High Court of Madras,
Madras.



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N. ANAND VENKATESH,. J.
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