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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

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THE HON'BLE Ms. JUSTICE R.N.MANJULA

Crl.R.C.No.762 of 2021

Banumathi

... Petitioner/2nd Accused

Vs.

State Rep. by
The Inspector of Police,
Vaitheeswaran
Kovil Police Station,
Nagapattinam.
(Crime No.155 of 2021)

...Respondent/Complainant

Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. seeking to set aside the order dated 17.08.2021 passed in Crl.M.P.No.2334 of 2021 by the learned District and Sessions Judge at Nagapattinam and direct the respondent herein to return her Ashok Leyland Taurus Lorry bearing Registration No.TN 47 AB 2228.

For Petitioner : Mr.M.Govindaraju

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

This criminal revision has been filed seeking to set aside the order dated 17.08.2021 passed in Crl.M.P.No.2334 of 2021 by the learned District and Sessions Judge, Nagapattinam and direct the respondent herein to return her Ashok Leyland Taurus Lorry bearing Registration No.TN 47 AB 2228.

2. The petitioner is the owner of the vehicle (Ashok Leyland Taurus Lorry) bearing Registration No.TN-47-AB-2228, which was seized for illegally carrying 2 units of savudu sand



and a case was registered in Crime No.155 of 2021 for the offence under Sections 379 & 430 IPC and 21(1) of the Mines & Minerals (Development & Regulation) Act, 1957. The petitioner filed Crl.M.P.No.2334 of 2021 before the learned District and Sessions Judge, Nagapattinam, under Sections 451 & 457 Cr.P.C. for return of vehicle, which was dismissed on 17.08.2021, challenging which, the petitioner has preferred the present revision petition.

3. Heard Mr.M.Govindaraju, learned counsel for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent/State.

4. It is seen that the vehicle was seized on 20.04.2021 and it is in the police station open to sun and rain.

5. Taking into consideration the aforesaid facts and in view of the guidelines given by the Supreme Court in Sunderbhai Ambalal Desai Vs. State of Gujarat reported in (2002) 10 SCC 290, this Court is of the view that interests of justice will be served, if the vehicle is ordered to be released to the petitioner on certain stringent conditions. The respondent police is directed to grant interim custody of the said vehicle (Ashok Leyland Taurus Lorry) bearing Registration No.TN-47-AB-2228 to the petitioner within a period of 7 days from the date of compliance of the below mentioned condition Nos.(i) to (iii) :

- i. The petitioner shall deposit a non-refundable sum of Rs.50,000/- before the jurisdictional Tahsildar. After receipt of the above said amount, the Tahsildar shall transfer the same to the credit of the District Mines and Minerals Foundation Trust, Nagapattinam as non-refundable deposit;
- ii. The petitioner shall execute a personal bond for a sum of Rs.50,000/- with two sureties each, for a like sum to the satisfaction of the District and Sessions Court, Nagapattinam. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;



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- iii The petitioner shall give an undertaking before the respondent/authority concerned stating that she will not use the vehicle in question for any illegal activities in future and shall produce the same as and when required by the respondent and also the trial Court, failing which the respondent/trial Court is at liberty to confiscate the vehicle;
- iv. The petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned;
- v. The petitioner shall take photograph of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872;
- vi. The petitioner shall surrender the original R.C. book before the District and Sessions Court, Nagapattinam; and
- vii The petitioner is also directed to participate in the enquiry to be conducted by the respondent.

Petition relating to return of R.C. Book for any purpose in the future, may be filed before the District and Sessions Court, Nagapattinam, who may consider the same on merits, though this order has been passed by the High Court.

6. This Criminal Revision Petition is allowed in the above terms and the order dated 17.08.2021 passed in Crl.M.P.No.2334 of 2021 by the learned District and Sessions Judge, Nagapattinam, is set aside.

Sd/-
Assistant Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

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To

1. The District and Sessions Judge,
Nagapattinam
2. The Tahsildar,
Nagapattinam.
3. The Inspector of Police,
Vaitheeswaran
Kovil Police Station,
Nagapattinam.
4. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.
5. The District Mines and
Minerals Foundation Trust,
Nagapattinam.

+1cc to Mr.M.Govindaraja, Advocate, S.R.No.59142

Cr1.R.C.No.762 of 2021

SS(CO)
SU(01/12/2021)