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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.21640 of 2021

Sathishkumar

...Petitioner

Vs

1.State: rep.by its

Inspector of Police, Padalam Police Station,
Chengalpattu District.(Crime No.453 of 2021)

2.The Assistant Director,

Mines and Minerals Department,
Kancheepuram, Kancheepuram District.

3.The Tahsildar,

Madhuranthagam Taluk,
Chengalpattu District.

...Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to modify the condition imposed by the learned Principal Sessions Judge, Kancheepuram District at Chengalpattu, order dated 17.09.2021 made in Crl.M.P.No.3868 of 2021 2. The petitioner is directed to remit a non-refundable deposit of Rs.1,00,000/- before the Tahsildar, Madhuranthagam by way of demand draft payable to the credit of the District Mines and Minerals Foundation Trust.

For Petitioner :Mr.C.Punniakoti

For Respondent :Mr.R.Vinothraja

No.1

Government Advocate (Crl.side)

ORDER

The petitioner, who is the owner of Tipper lorry bearing registration Number TN-21-H-5694, which is involved in Crime No.453 of 2021 for offences under Sections 430, 379 IPC r/w 21(1) of Mines & Minerals (Development & Regulation), Act, 1957, has filed this petition seeking return of property.

2.The Principal District and Sessions Judge, Kancheepuram District at Chengalpattu, by an order dated 17.09.2021 granted return of Tipper Lorry bearing Registration No.TN-21-H-5694 for interim custody with certain conditions.



3.The grievance of the petitioner is that one of the conditions viz., condition No.2 directing the petitioner to deposit a sum of Rs.1,00,000/- to the Tahsildar, Madurantakam by way of Demand Draft to the credit of The District Mines and Minerals Foundation Trust, is a onerous one. Hence, he has filed this petition seeking modification.

4.The contention of the learned counsel for the petitioner is that the vehicle is a small one and it's value is around Rs.1,00,000/-. Further, the petitioner had purchased the vehicle as a subsequent purchaser in the year 2014. The vehicle is of the year 2006, it is almost 15 years old and it is already out labels life. Hence, payment of condition of Rs.1,00,000/- is not reasonable.

5.The learned Government Advocate (Crl.side) submits that the petitioner's vehicle was involved in Smuggling, Transportation of sand near Palaiyanur lake with the aid of JCB. On seeing the respondent patrol, the petitioner attempted to flee away from the scene of occurrence. Thereafter, the petitioner's lorry along with another lorry bearing registration No.TN-20-AT-9288 and JCB bearing registration No.TN-05-AM-8330 were seized. The petitioner is not only the owner of the lorry and he is also the owner of JCB, caught red handed while transporting sand, which causes environmental damages. Hence, he strongly opposed the modification petition.

6.Considering the submission and on perusal of the materials, it is seen that the petitioner is not only the owner of Tata Tipper Lorry bearing registration No.TN-21-H-5694 and he is also owner of JCB bearing registration No.TN-05-AM-8330. The lorry and JCB were seized from the scene of occurrence and also arrested the accused person therein. The seizer has been recorded in the Mahazer and the same is mentioned in the FIR. Finding that the lorry had been seized from the scene of occurrence and this Court finds that the condition imposed by the lower Court is not onerous. Accordingly, the criminal original petition is dismissed.

s/d-
Assistant Registrar

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Sub-Assistant Registrar



sms
To

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- 1.The learned Principal Sessions Judge,
Kancheepuram District at Chengalpattu.
- 2.The Inspector of Police, Padalam Police Station,
Chengalpattu District.
- 3.The Assistant Director,
Mines and Minerals Department,
Kancheepuram, Kancheepuram District.
- 4.The Tahsildar,
Madhuranthagam Taluk,
Chengalpattu District.
- 5.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.21640 of 2021

PL(CO)
SP(21/12/2021)