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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.763 OF 2021

Mahesh ... Petitioner/Accused

.Vs.

State Rep. by
The Inspector of Police,
Perambur Police Station,
Perambur, Nagapattinam District.
(Crime No.12 of 2020)

... Respondent/Complainant

Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. seeking to set aside the order passed in Cr.M.P.No.843 of 2021 dated 16.03.2021 on the file of the District and Sessions Court, Nagapattinam and direct the respondent to release the Tipper Lorry bearing Registration No.TN31 AR 0150 which was seized in connection with the Cr.No.12/2020 seized on 17.01.2021 on the file of the respondent Police.

For Petitioner : Mr.M.Ganesh

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

ORDER

This criminal revision has been filed seeking to set aside the order dated 16.03.2021 passed in Cr.M.P.No.843 of 2021 by the District and Sessions Judge, Nagapattinam and to direct the respondent to release the Mahindra Tractor with tipper bearing Registration No.TN31 AR 0150.

2. The petitioner is the owner of the vehicle (Mahindra Tractor with tipper) bearing Registration No.TN-31-AR-0150, which was seized for illegal sand mining and a case was registered in Crime No.12 of 2020 for the offence under Sections 379 & 430 IPC and 21(1) of the Mines & Minerals (Development &



Regulation) Act, 1957. The petitioner filed Cr.M.P.No.843 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 16.03.2021, challenging which, the petitioner has preferred the present revision petition.

3. Heard Mr.M.Ganesh, 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 17.01.2021 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 (Mahindra Tractor with tipper) bearing Registration No.TN-31-AR-0150 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 sum of Rs.50,000/- before the jurisdictional Tahsildar as non-refundable deposit. After receipt of the above said amount, the same will have to be deposited by the Tahsildar, 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;
- (iii) The petitioner shall give an undertaking before the respondent/authority concerned stating that he 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;



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(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 16.03.2021 passed in Cr.M.P.No.843 of 2021 by the learned District and Sessions Judge, Nagapattinam, is set aside.

Sd/-

Assistant Registrar(CS VIII)

//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,
Perambur Police Station,
Perambur, Nagapattinam District.

4. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

+lcc to Mr.M.Ganesh, Advocate, S.R.No.58951

Cr1.R.C.No.763 of 2021

RGN(CO)
PM/02/12/2021