



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2811 of 2021

K.Arumugam

... Petitioner

-Vs-

1.The Assistant Director,
Geology and Mining,
Ramanathapuram District,
Ramanathapuram.

2.The Revenue Divisional Officer,
Paramakudi Division,
Ramanathapuram District.

3.The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the second respondent to release the petitioner's motor bike bearing Reg.No.TN 65 AW 0661 and Tractor bearing Reg.No.TN 38 AH 5257 in the light of his petition dated 28.01.2021 on the file of the second respondent.

For Petitioner : Mr.R.Venkateswaran

For Respondents : Mr.V.Anand
Government Advocate.

ORDER

Heard the learned counsel on either side. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner claims to be the owner of the petition mentioned vehicles. They were seized in connection with the petition mentioned crime number. The petitioner's counsel states that till date the vehicles in question have not been produced before the jurisdictional court. The case is still under investigation. Therefore, the writ Court will always have the power to direct release of vehicle.

3.It has been held time and again that keeping the vehicle in the custody of the respondents is not going to serve any purpose.



On the other hand, it will contribute to loss of value. The Hon'ble Supreme Court in the decision reported in (2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat) has held as follows:-

"17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

4. The learned Government Advocate would point out that the petitioner is having a number of previous cases of the same nature and that the petition mentioned Tractor is also involved in two previous cases of the same nature. However, the petitioner's counsel would point out that the two wheeler is not involved in any previous case.

5. In view of the submission made by the learned Government Advocate, I direct release of the petition mentioned two wheeler subject to the following conditions :

- a) The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.
- b) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle. If the petitioner concerned is an agreement holder and the R.C book is with the financier, he or she can be permitted to produce the photocopies of the relevant documents and if the vehicle is a new one, sales invoice can be produced.
- c) As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and shall cooperate with the enquiry to be conducted by the respondents.

6. If the undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future and the order passed by this Court will stand recalled and the vehicle in question will be taken back to custody and it will be released only after getting orders from this Court on such terms as this Court may deem it fit to impose.

7. The respondents are directed to produce the petition mentioned Tractor before the Court below immediately and without any delay. It is open to the petitioner to move the Court below for



release of the Tractor. As and when the petition is filed by the petitioner, the same will be disposed of on merits and in accordance with law within a period of ten days thereafter. I make it clear that I have not gone into the merits of the matter.

8.The Writ Petition is partly allowed accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Assistant Director,
Geology and Mining,
Ramanathapuram District,
Ramanathapuram.
- 2.The Revenue Divisional Officer,
Paramakudi Division,
Ramanathapuram District.
- 3.The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.

+1 CC to SPL GP (SR-5324[F] dated 16/02/2021)

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