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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.05.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.645 of 2022

S.Devendiran

...Petitioner/Accused No.3

Vs.

State Represented by,
The Sub Inspector of Police,
Moranam Police Station,
Tiruvannamalai District.
(Crime No.340/2021)

... Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order in Crl.M.P.No.1447 of 2021 dated 22.02.2022 passed by the learned Judicial Magistrate, Cheyyar, Tiruvannamalai consequently direct the respondent to return the petitioner's vehicle namely JCB bearing registration No. TN-97-Y-4658 to the petitioner as interim custody.

For Petitioner : Mr.E.Sathiyaraj

For Respondent : Mr.C.Leonard Arul Joseph Selvam
Government Advocate (Crl.side)

JUDGMENT

The petitioner is the owner of the vehicle viz., JCB bearing Registration Number TN-97-Y-4658 and filed a petition in Crl.M.P.No.1447 of 2021 for return of vehicle, which was seized in connection with Crime No.340 of 2021. The learned Judicial Magistrate, Cheyyar, by order, dated 22.02.2022 dismissed the petition, against which the petitioner before this Court.

2.The case of the prosecution is that on 30.11.2021, the accused persons damaged the bank of lake at Sitheri, through JCB vehicle bearing registration No. TN-97-Y-4658. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle viz., JCB bearing Registration Number TN-97-Y-4658, who was arrested



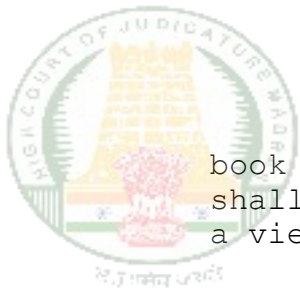
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and released on bail for the offence under Section 430 of IPC r/w Section 3 (ii) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act and the said JCB vehicle was also seized. Thereafter, the trial Court granted bail to the petitioner in Crl.M.P.No.4545 of 2021 by an order dated 19.12.2021 and the one of the condition is that the petitioner has to deposit one lakh rupees. The said condition was complied with and the said amount has been deposited by the petitioner and a proof of the deposit has been produced by way of a receipt bearing No.239008 dated 09.12.2021. The petitioner filed a petition under Section 451 and 457 Cr.P.C., before the learned Judicial Magistrate, Cheyyar in Crl.M.P.No.1447 of 2021 for return of his vehicle, but the same was dismissed. He would further submit that the vehicle is kept in open space and exposed to vagaries of weather and thereby, the value of the vehicle is diminishing day by day. He would submit that the petitioner is prepared to give an undertaking that the vehicle will not be used for any illegal activities in future and it will be produced before the Trial Court or before the concerned Confiscation Authorities as and when required for the purpose of investigation. He further submits that the petitioner purchased the said vehicle recently on 07.07.2020 through loan from Sundaram Finance Limited for a sum of Rs.25,00,000/- and the period of the loan starts from 09.06.2020 to April 2024 with a monthly instalment of Rs.48,990/-. Due to the detention of the vehicle, he is unable to pay the monthly instalment and thereby, he seeks to set aside the order passed by the trial court and would seek for interim custody of the vehicle to the petitioner.

4.The learned Government Advocate (Crl.side) submits that the petitioner along with accused persons used the said vehicle and broken the bank of the lake and thereby caused damages to the tune of Rs.3.05 lakhs. Further, water had been wasted and drained out. Hence, the trial Court has rightly seized the vehicle.

5. Taking into consideration of the facts and circumstances of the case that the petitioner is the owner of the vehicle, who recently purchased the vehicle for loan from Sundaram Finance limited, and also the fact that the petitioner was unable to pay the monthly instalments, due to the custody of the vehicle, and also that the petitioner has deposited a sum of Rs.1,00,000/- towards enlargement of bail, this Court is of the opinion that the interim custody of the vehicle can be granted to the petitioner by imposing the following conditions.

(i)The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC



book and other records, retain the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;

(ii) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(iii) The petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only), as non-refundable deposit through RTGS/NEFT in the crime No.340 of 2021, on such payment and production of proof, the vehicle shall be returned;

(iv) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government;

(v) The petitioner shall participate in the confiscation proceedings if any initiated and shall produce the vehicle before the confiscation authority. This order is subjected to the confiscation proceedings.

Sd/-

Assistant Registrar(Vacation Officer)

//True Copy//

Sub Assistant Registrar

pbl/hvk

To

1.The Judicial Magistrate, Cheyyar,
Tiruvannamalai District.

2.The Sub Inspector of Police, Moranam Police Station,
Tiruvannamalai District.

3. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.E.Sathiyaraj, Advocate Sr.NO. 31774

Crl.A.No.645 of 2022

AK II(CO)

A.SK(31/05/2022)