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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.R.C.NO.670 OF 2022

Kumar

... Petitioner

Versus

The State rep.by
The Inspector of Police,
Sembanarkoil Police Station,
Nagapattinam District.

... Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to call for the records of the Learned Principal District and Sessions Judge, Nagapattinam and set aside the order dated 15.04.2021 in C.M.P.No.1103 of 2021 and order return of the vehicle, Tipper Lorry bearing Regn. No. TN 57 9189, Engine No.FWE182702, Chasis No. FWE300499 concerned in Crime No.20 of 2021, on the file of the respondent to the custody of the petitioner herein .

For Petitioner : Mr.K.Balu

For Respondents : Mr.S.Vinoth Kumar,
Government Advocate (Crl.Side)

O R D E R

The petitioner is the owner of the Vehicle, Tipper Lorry bearing Regn. No. TN 57 9189, Engine No. FWE182792, Chasis No. FWE300499. The said vehicle was seized by the respondent police, for illegal sand theft, for which, a case in Crime No.120 of 2021 was registered and the said vehicle was produced before the Learned Magistrate in C.P.No.1288 of 2021.

2.The petitioner approached the learned Magistrate by way of Crl.MP.No.1103 of 2021 under Section 451 of the Code of Criminal



Procedure for Return of the above said Vehicle, to him, pending investigation and trial. Therefore, the learned Magistrate refused by an order dated 15.04.2021, as against which the present revision is filed.

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3. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle. Unless return of vehicle is ordered, the petitioner would be put to irreparable prejudice as the vehicle would rought and became unusable, unless the same is returned to the petitioner. The petitioner would abide by all or any other conditions that may be imposed on him by this Court. He would further submit that it is a case of mere apprehension and the petitioner will not indulge in any similar offence in future.

4. Per contra, the learned Government Advocate (crl.side) appearing for the respondent/police would submit that it is not a case of mere apprehension. The trial Court has rightly rejected the prayer on the ground that the petitioner may indulge in repeated act of sand mining. Therefore, on release of this vehicle, there is a likelihood of the petitioner indulging in the same offence once again and hence, he opposes granting the prayer in the revision.

5. Considering the rival submissions made on behalf of both sides and perusing the material records on this case, I am of the view that the vehicle ought to be returned to the petitioner, who's admittedly the lawful owner.

6. The Criminal Revision is therefore, allowed on the following terms:

(i) The order of the Learned Principal District and Sessions Judge, Nagapattinam, dated 15.04.2021, is set aside.

(ii) The petitioner will be entitled for return of Tipper Lorry bearing Regn. No. TN 57 9189, Engine No. FWE182792, Chasis No. FWE300499.

(iii) 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, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;

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



(v) 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.

(vi) 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.

(vii) The petitioner shall not indulge in the similar offence either by using the present vehicle or any other vehicle. If the petitioner is found to be involved in any of similar offence in future, either by way of the present vehicle or by any other vehicle, this order of returning the present vehicle Tipper Lorry bearing Regn. No. TN 57 9189, Engine No. FWE182792, Chasis No. FWE300499, shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Nagapattinam.
2. The Inspector of Police,
Sembanarkoil Police Station,
Nagapattinam District.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.K.Balu, Advocate, S.R.No.33210

Cr1.R.C.No.670 of 2022

MT(CO)
RLP(01/07/2022)