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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.682 of 2022

Ibramsha

...Petitioner

Versus

The Inspector of Police,
Sankarapuram Police Station,
Kallakurichi District.

...Respondent

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order dated 04.03.2022 made in Crl.M.P.No.386 of 2022 on the file of the learned Judicial Magistrate, Sankarapuram and consequently direct the respondent police to return the petitioner vehicle bearing Registration No.TN15 Y 8043 Engine No.PY3029D295031, Chassis No.PY5204B014319 John Deere 5204 Tractor along with Tipper by allowing this Criminal Revision Petition.

For Petitioner : Mr.V.Gunasekar

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

O R D E R

The petitioner is the owner of the vehicle being a tractor and tipper bearing Reg.No.TN-15-Y-8043, which was seized during the process of investigation in Crime No.885 of 2021 for the alleged involvement in sand theft. The petitioner, therefore, filed Crl.M.P.No.386 of 2022 for interim custody of the vehicle, pending investigation and trial. Therefore, the learned Magistrate refused by an order dated 04.03.2022, as against which the present revision is filed.

2. 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 rot 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.

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3. 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.

4.I have considered the rival submissions made on behalf of both sides and perused the material records on this case.

5.I am of the view that, based on such apprehension refusing interim custody would allow the vehicle to rot and therefore that apprehension can be taken care of by imposing adequate conditions.

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

(i) The order of the Learned Judicial Magistrate, Sankarapuram, in CrI.M.P.No.386 of 2022, dated 04.03.2022, is set aside.

(ii)The petitioner will be entitled for return of the Tractor and Tipper, vehicle viz., John deere 5204, bearing Registration No.TN-15-Y-8043, having Chassis No.PY5204B014319, Engine No.PY3029D295031.

(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.

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(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 using the present vehicle or through any other vehicle, this order of returning the present vehicle (Tractor and Tipper, vehicle viz., John deere 5204, bearing Registration No.TN-15-Y-8043, having Chassis No.PY5204B014319, Engine No.PY3029D295031), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Anu

To

1. The Judicial Magistrate,
Sankarapuram.
2. The Public Prosecutor,
High Court of Madras.
3. The Inspector of Police,
Sankarapuram Police Station,
Kallakurichi District.

+1cc to Mr.V.Gunasekar, Advocate, S.R.No.33765

Cr1.R.C.No.682 of 2022

SKM(CO)
RGA(21/06/2022)