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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.R.C.NO.750 OF 2022

D.Ganeshkumar

... Petitioner

Versus

The State Rep. by
The Inspector of Police,
Thirukannapuram Police Station,
Nagapattinam District.

... Respondent

PRAYER:- Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order passed by Principal District and Sessions Judge, Nagapattinam District, in Crl.M.P.No.1005 of 2022 on 26.04.2022 in connection with the Crime No.71 of 2022 on the file of the Respondent Police.

For Petitioner : Ms.C.V.Salin Nisha

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

O R D E R

The petitioner is the owner of the vehicle (Eicher Tractor attached with Tipper bearing Registration No.TN 51 B 4370). The said vehicle was seized by the respondent police, for illegal sand theft, for which, a case in Crime No.71 of 2022 was registered and the said vehicle was produced before the Learned Magistrate.

2. The petitioner approached the Principal District and Sessions Judge, Nagapattinam by way of Cr.MP.No.1005 of 2022 under Section 451 read with Section 457 of the Code of Criminal Procedure for Return of the above said Vehicle, to him, pending investigation and trial. Therefore, the Principal District and Sessions Judge, Nagapattinam refused by an order dated 26.04.2022, as against which the present revision is filed.



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 rot and become 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 and further 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 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 Principal District and Sessions Judge, Nagapattinam in Cr.M.P.No.71 of 2022, is set aside.

(ii) The petitioner will be entitled for return of the vehicle (Eicher Tractor attached with Tipper bearing Registration No.TN 51 B 4370).

(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;

(vi) 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.



(vii) 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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(viii) 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 (Eicher Tractor attached with Tipper bearing Registration No.TN 51 B 4370), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned.

VIII) It is represented that the petitioner has not effected the name transfer in his name and therefore, within a period of four weeks from the date of receipt of return of vehicle, the petitioner shall effect such name transfer and produce the copy of the transferred registration certificate before the learned Magistrate.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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

+1cc to Ms.C.V.Salin Nisha, Advocate, S.R.No.37741

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JPL(CO)
PBS/30/06/2022