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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.733 of 2022

Nethaji Subash Chandra Bosh

... Petitioner

Versus

State rep. by:-

The Inspector of Police,
Kambainallur Police Station,
Dharmapuri District.

... Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order, dated 02.06.2022 made in Crl.M.P.No.866 of 2022 in Crime No.319 of 2022 on the file of the learned Principal Sessions Judge, Dharmapuri.

For Petitioner : Mr.M.Jayachandran

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

O R D E R

This Revision Petition is filed aggrieved by the order of the learned Principal Sessions Judge, Dharmapuri, dated 02.06.2022 in Crl.M.P.No.866 of 2022 in and by which the prayer of the petitioner for interim custody of the vehicle, namely Tractor, bearing registration No.TN 29 CZ 9878, was refused. Considering the fact that the vehicle was involved in an illegal transportation of norambu sand and there is likelihood of the petitioner involved in the similar offence, the prayer was rejected.

2. The learned Counsel appearing on behalf of the petitioner would submit that on the mere apprehension, the prayer is rejected.

3. The learned Government Advocate (Crl. Side) would submit that the vehicle is involved in an offence under Section 379 of I.P.C r/w Secs.21(1) and 21(4) of Mines and Minerals (Development and Regulation) Act, 1957 and therefore, the Trial Court has rightly rejected the prayer.



4. I am of the view that for the mere apprehension of the vehicle in the repeated offence, the vehicle cannot be allowed to rot and kept wasted and the said apprehension can be overcome by imposing appropriate conditions and therefore, the petitioner is entitled to return of the vehicle on the following terms:-

(i) The order of the learned Principal Sessions Judge, Dharmapuri, in Crl.M.P.No.866 of 2022, dated 02.06.2022, is set aside;

(ii) The petitioner will be entitled for return of the Tractor, bearing registration No.TN 29 CZ 9878, having Chassis No.KBTM20SACMTA12341, Engine No.BKA1560;

(iii) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Judge, 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 using the present vehicle or through any other vehicle, this order of returning the present vehicle (Tractor, bearing registration No.TN 29 CZ 9878, having Chassis No.KBTM20SACMTA12341, Engine No.BKA1560), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned;



5. The Criminal Revision Case is allowed accordingly.

Sd/-
Assistant Registrar(CS-CCC)

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//True copy//

Sub Assistant Registrar

grs

To

1. The Principal Sessions Judge,
Dharmapuri.
2. The Inspector of Police,
Kambainallur Police Station,
Dharmapuri District.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.P.M.Jayachandran, Advocate SR.No.36562

Cr1.R.C.No.733 of 2022

JPL(CO)
GMY(27/06/2022)