



Crl.R.C.No.1020 of 2022

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WEB C **D.BHARATHA CHAKRAVARTHY, J.**

Today, when the matter is listed under the caption "for being mentioned", the learned Counsel for the petitioner brought to the notice of this Court that it is not the case of transportation of river sand, but, it is only savudu sand.

2. Therefore, the condition mentioned in paragraph No.2 i.e., "This apart, since in this case, it is transportation of illegal river sand, a condition of non-refundable deposit of Rs.25,000/- to the District Mining Funds of the District Collector" and the same part of the condition No.8 in paragraph No.3 i.e., "Considering this is second offence, the petitioner shall also deposit a sum of Rs.25,000/- to the credit of Mining Funds of the District Collector" should be removed. The word "river sand" should also be altered as "savudu sand" wherever it occurs in the order.

3. Accordingly, the above said sentences in the paragraph Nos.2 and 3 are removed and the word "river sand" is altered as "savudu sand".

22.08.2022

grs

Note:-

Registry is directed to issue fresh order copy.



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22.08.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.1020 of 2022

Annadurai .. Petitioner

Vs

The State of Tamil Nadu
Rep. by the Inspector of Police
Kuthalam Police Station
Mayiladuthurai District.
(Crime No.200 of 2021) .. Respondent

Prayer: Criminal Miscellaneous Petition filed under Sections 397 and 439 of the Code of Criminal Procedure to set aside the order passed in Crl.M.P.No.2231 of 2021 on the file of the District and Sessions Judge, Nagapattinam dated 09.08.2021 and grant interim custody of the vehicle bearing Registration No.TN-82-J-1882 in favour of the petitioner.

For Petitioner : Mr.U.Kathiravan

For Respondent 1 : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)



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ORDER

The revision is filed against the order of the learned District and Sessions Judge, Nagapattinam dated 09.8.2021 in Cr.M.P.No.2231 of 2020 in and by which, the prayer for interim custody of the vehicle being a Tractor attached with Tipper bearing Registration No.TN-82-J-1882, is refused by the learned Judge.

2. The vehicle of the petitioner is alleged to have been involved in an offence of illegal transporting of river sand. Apprehending that the petitioner may involve in the same offence once again, the Trial Court dismissed the application. In the opinion of this Court, on the mere apprehension of the petitioner involving once again in similar offence, cannot be a reason to refuse the prayer and such apprehension can be taken care of by imposing adequate conditions. This apart, since in this case, it is transportation of illegal river sand, a condition of non-refundable deposit of Rs.25,000/- to the District Mining Funds of the District collector.

3. In that view of the matter, the revision is disposed of as follows:

(i) The order of the learned District and Sessions Judge,



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Nagapattinam dated 09.8.2021 in Cr.M.P.No.2231 of 2020,
is set aside.

(ii) The petitioner shall be entitled for return of vehicle being Tractor attached with Tipper bearing Registration No.TN-82-J-1882 on the following condition:

(a) The petitioner shall deposit a sum of Rs.25,000/- to the District Mining Fund of the District Collector, Nagapattinam and the said deposit shall be non-refundable.

(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



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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 attached with Tipper bearing Registration No.TN-82-J-1882), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned;



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(viii) Considering this is second offence, the petitioner shall also deposit a sum of Rs.25,000/- to the credit of Mining Funds of the District Collector and it is also made clear that if the petitioner, by this vehicle or by any other vehicle, involves in further offence of similar in nature, the order of return of this vehicle shall stand vacated automatically and the vehicle will be seized and repossessed.

28.07.2022

Index : yes/no
Internet: yes/no
Speaking order/Non-speaking order
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To

1. Inspector of Police
Kuthalam Police Station
Mayiladuthurai District.
(Crime No.200 of 2021) .

2. The District and Sessions Judge, Nagapattinam.

3. The Public Prosecutor,
Madras High Court.



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