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Crl.R.C.No.959 of 2020

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D.BHARATHA CHAKRAVARTHY, J.

Today, this matter is listed under the caption “for being mentioned”.

2.It is brought to the notice of this Court by the learned Counsel for the petitioner that the registration number of the vehicle is wrongly mentioned in the order copy as ‘TN-05-U-4927’ instead of ‘TN-50-U-4927’ and requested to make corrections in prayer portion, paragraph No.1, 4, 4(iii) and 4(viii).

3.Registry is directed to carry out necessary corrections wherever it requires and issue fresh order copy to the parties concerned and the rest of the order shall be remain intact.

14.10.2022

klr

Note:-

Registry is directed to make necessary corrections and issue fresh order copy



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.959 of 2020

Bharathkumar

.. Petitioner

Vs

State rep. by The Inspector of Police
Sembanar Kovil Police Station
Nagapattinam.
(Cr.No.929 of 2020)

.. Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 Code of Criminal Procedure, to set aside the order passed in Cr.M.P.No.2293 of 2020 by the District and Sessions Judge dated 04.09.2020 and consequently direct the respondent to release and hand over the petitioner's vehicle Ashok Leyland Dost Reg.No.TN-05-U-4927 to the petitioner.

For Petitioner : Mr.K.Prasanna
for Mr.K.Sathish

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



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ORDER

The revision is filed aggrieved by the order of the learned District and Sessions Judge, Nagapattinam dated 04.09.2020 in Cr.M.P.No.2293 of 2020 in and by which the prayer of the petitioner for interim custody of the vehicle bearing Reg.No.TN-05-U-4927, was refused by the Trial Court.

2. Learned Judge refused the prayer on the ground that the petitioner vehicle was involved in illegal transportation of river sand and there is a likelihood of the petitioner involving in the very same offence, if the vehicle is returned.

3. In am of the view that for the mere apprehension of likelihood of repeated offence, the vehicle need not be allowed to waste and get rot. The petitioner being the lawful owner could be granted interim custody and the apprehension can be over come by imposing appropriate conditions. As stated by the Trial Court, the transportation is of river sand and therefore, stringent conditions have to be imposed.

4. Therefore, the petitioner will be entitled for return of vehicle bearing Reg.No.TN-05-U-4927 on the following conditions:



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- (i) The order of the learned District and Sessions Judge, Nagapattinam dated 04.09.2020 in Cr.M.P.No.2293 of 2020, is set aside;
- (ii) The petitioner shall make a non-refundable deposit of Rs.25,000/- to the District Mining Fund of the District Collector, Nagapattinam;
- (iii) The petitioner will be entitled for return of the vehicle, bearing Reg.No.TN-05-U-4927;
- (iv) 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;
- (v) 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



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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 subject to the confiscation proceedings;

(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 using the present vehicle or through any other vehicle, this order of returning the present vehicle (bearing Reg.No.TN-05-U-4927), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned.

Index : yes/no
Speaking/Non-speaking order
drm

12.08.2022



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To

1. The District and Sessions Court, Nagapattinam.
2. The Public Prosecutor, High Court of Madras.
3. The Inspector of Police
Sembanar Kovil Police Station
Nagapattinam.
(Cr.No.929 of 2020).



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