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CRL.RC.No.1524 of 2022

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

Dated : 07.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRL.RC.No.1524 of 2022

Premkumar

.. Petitioner

Vs.

The State by
the Sub-Inspector of Police,
Manalmedu Police Station,
Mayiladuthurai District.

.. Respondent

Prayer: Criminal Revision Case is filed under Section 397 and 401 of the Code of Criminal Procedure to set aside the order in Crl.M.P.No.608 of 2021, dated 23.02.2021 on the file of the District and Sessions Judge, Nagapattinam.

For Petitioner

: Mr.V. Elangovan

For Respondent

: Mr. V. Meganathan
Govt. Advocate (crl.side)

ORDER

This Criminal Revision Case has been filed against the dismissal of the petition filed by the petitioner in Crl.MP.No.608 of 2021, dated 23.2.2021 by the learned District and Sessions Judge, Nagapattinam.



CRL.RC.No.1524 of 2022

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2. The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle, viz, Tipper Lorry, bearing Registration No.TN69 AA 7599 and the vehicle has been seized in connection with a case registered in Crime No.252 of 2019 by the Inspector of Police, Manalmedu for the offences punishable under sections 379 IPC and 21(1) of Mines and Minerals (Development and Regulation) Act for transporting two units of sand illegally. Therefore, the petitioner filed a petition in Crl.M.P.No.608 of 2021 under Sections 451 and 457 of Cr.P.C., before the District and Sessions Judge, Nagapattinam to return the vehicle kept under the custody of the police. The trial court, by an order dated 23.2.2021, dismissed the said petition on the ground that if the vehicle is released, there is a possibility of redeployment of the said vehicle for committing the same offence .

3. He further submitted that the vehicle is not involved in any previous similar type of cases. The vehicle has been kept idle and exposed to all weather conditions, due to which, the value of the vehicle is being drastically diminished and the same would cause huge monetary loss to the petitioner. He would further submit that the petitioner is only



CRL.RC.No.1524 of 2022

the owner of the vehicle and he is no way connected with the commission of offence. Thus, he seeks for setting aside the impugned order and to release the vehicle which is kept under the custody of the police.

4. The learned Govt. Advocate (crl.side) appearing for the respondent police, on instructions, submitted that the vehicle is involved in the offence of transporting two units of sand illegally, hence a case has been registered in Crime No.252 of 2019. He would further submit that the vehicle is not previously involved in any similar type of offence.

5. Heard both sides and perused the materials available on record.

6. A perusal of records would reveal that the respondent police has registered a case against the accused persons in Crime No.252 of 2019 for the offences punishable under sections 379 IPC and 21(1), of Mines and Minerals (Development and Regulation) Act for transporting two units of sand illegally. The petitioner is the owner of the tipper lorry bearing Registration No. TN69 AA 7599 and the vehicle has been seized on 2.12.2019 and since then, it has been kept idle under the custody of



CRL.RC.No.1524 of 2022

respondent police. Further, it is reported by the learned Govt. Advocate

(crl.side) that the vehicle is not involved in previous similar type of cases and for the first time, this case has been registered.

7. In ***Sunderbhai Ambalal Desai vs State Of Gujarat*** (cited supra), the Hon'ble Supreme Court in paragraph No.17 has held as follows:

"In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

8. Considering the nature of the offence and non involvement of the vehicle in any other previous case of similar type and following the aforesaid decision, this court is inclined to direct the designated court to return the vehicle for interim custody by imposing stringent conditions.

9. Accordingly, the respondent is directed to release the vehicle



CRL.RC.No.1524 of 2022

in question to the petitioner on compliance of the following conditions:

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- i. *the petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;*
- ii. *the petitioner shall not alienate or encumber the vehicle in any manner;*
- iii. *the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) before the District and Sessions Judge, Nagapattinam.*
- iv. *the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future.*
- v. *the petitioner shall take photograph of the vehicle; and ;*
- vi. *the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.*

10. In the result, the impugned order is hereby set aside and the Criminal Revision Case is allowed with the above terms and conditions.

07.12.2022

Index :yes/no

Internet:yes/no

msr



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To

1. Sub-Inspector of Police,
Manalmedu Police Station,
Mayiladuthurai District.
2. The District and Sessions Judge,
Nagapattinam.
3. The Public Prosecutor,
High Court, Madras.



CRL.RC.No.1524 of 2022

V. SIVAGNANAM, J.

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CRL.RC.No.1524 of 2022

07.12.2022