



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2022

CORAM:

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.3352 of 2022

Abu Mohamed

... Petitioner

/Vs./

1.The District Revenue Officer,
Tenkasi District,
Tenkasi.

2.The Inspector of Police,
Civil Supplies Crime Investigation Department,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to release the Ashok Leyland Lorry bearing registration No.TN-75-3903 seized by the second respondent on 01.02.2022, to the petitioner.

For Petitioner

: Mr.T.Lenin Kumar

For Respondents

: Mr.B.Saravanan

Additional Government Pleader

ORDER

This writ petition has been filed for a Mandamus to direct the first respondent to release the petitioner's Ashok Leyland Lorry bearing Reg.No.TN-75-3903 seized by the second respondent on 01.02.2022.

2.Heard Mr.T.Lenin Kumar, learned counsel appearing for the petitioner and Mr.B.Saravanan, learned Additional Government Pleader, appearing for the respondents.

3.By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

4.It is the case of the petitioner that he is the owner of the aforementioned vehicle. According to the petitioner, on 01.02.2022, the respondent police seized the above-mentioned vehicle of the petitioner, alleging that the vehicle was used to illegally transport the ration rice and registered a case in Crime No.33 of 2022 for the alleged offence under Section 6(4) of TNSC (RDSCS) Order 1982 r/w. Section 7(1)(a)(ii) of the Essential Commodities Act, 1955.



5.It is the contention of the petitioner that he was never involved in any illegal transportation of Rice as alleged by the Police and he has not committed any prior criminal offence. According to the petitioner, the seized vehicle is now being kept in the open place and due to exposure of sun and rain and the vagaries of nature, the vehicle will lose its value and may, ultimately become a wreck and worthless. In such circumstances, this Writ Petition has been filed seeking for release of the said vehicle.

6.The petitioner has also given a representation on 16.02.2022 to the respondents seeking for release of the said seized vehicle. According to the petitioner, the said representation has not been considered by the respondents till date. As rightly contended by the petitioner, if the vehicle, which was seized by the second respondent, is kept in the open place, it will not be useful to anyone in the near future and if it is continued to remain in the open, it has to face the vagaries of nature and ultimately will become a wreck and worthless. However, whether the petitioner has committed the alleged offence or not can be adjudicated only after trial before the Criminal Court. Till such time, the vehicle cannot be kept idle. Therefore, this Court is inclined to grant an order as sought for by the petitioner in this Writ Petition, subject to the fulfillment of the following conditions by the petitioner.

(i)Since it is the case involving seizure of PDS Rice, the petitioner cannot give security by way of bond, instead will have to give cash security. Accordingly, the petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with the first respondent within a period of two [2] weeks from the date of receipt of a copy of this order.

(ii)the petitioner shall give an unconditional undertaking to the first respondent that he shall not alienate or encumber the vehicle in question without permission of the Jurisdictional Magistrate till the completion of the confiscation proceedings

(iii)the petitioner shall not change the colour and scheme of the vehicle.

(iv)the petitioner shall not use the vehicle for any illegal activities.

(v)before releasing the vehicle, the police authority shall take photographs of the vehicle at the cost of the petitioner.

(vi)The petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicle to the first respondent. If the petitioner concerned is an agreement holder and the R.C book is with the financier, he or she can be permitted to produce the photocopies of the relevant documents and if the vehicle

is not a financier, sales invoice can be produced.



(vii)As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.

7.Upon completion of the above-mentioned formalities, the second respondent shall release the vehicle viz., petitioner's Ashok Leyland Lorry bearing Reg.No.TN-75-3903 to the petitioner forthwith without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future. As far as confiscation proceedings initiated against the seized vehicle is concerned, the same can go on without any interference.

8.The Writ Petition is disposed of accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Revenue Officer,
Tenkasi District,
Tenkasi.

2.The Inspector of Police,
Civil Supplies Crime Investigation Department,
Tirunelveli.

+1 CC to M/s.SPL GP (SR-8037[F] dated 23/02/2022)

W.P. [MD]No.3352 of 2022

22.02.2022

MGJ(05.03.2022) 3P 4C