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Crl.O.P.No.21618 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.21618 of 2023

Gunasekaran
S/o.Murugesan

... Petitioner

Vs.

State represented by
The Inspector of Police,
Hudco Police Station,
Krishnagiri District.
(In Crime No.165 of 2022)

... Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to set aside the order dated 13.06.2023 in Crl.R.C.No.05 of 2022 on the file of the Principal District and Sessions Judge, Krishnagiri confirming the order of learned Judicial Magistrate II, Hosur, in C.M.P.No.2610 of 2022.

For Petitioner : Mr.A.Anandharaj
For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Principal District Judge, Krishnagiri, in Crl.R.C.No.5 of 2022, dated 13.06.2023 confirming the order passed by learned Judicial



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Magistrate II, Hosur, in Crl.M.P.No.2610 of 2022, dated 25.07.2022, dismissing the application filed by the petitioner seeking for returning of vehicle.

2. Heard Mr.A.Anandharaj, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.

3. The respondent police seized the lorry belonging to the petitioner in the course of investigation in Crime No.165 of 2022. The petitioner was also shown as one of the accused in this case. The case of the prosecution is that the vehicle was used for transporting tobacco products worth about Rs.25,43,880/-.

4. The petitioner filed a petition before learned Judicial Magistrate II, Hosur, seeking for release of lorry and the same came to be dismissed by the learned Judicial Magistrate II, Hosur, considering the volume of contraband/tobacco product that were seized by the respondent. Aggrieved



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by the same, the petitioner filed Crl.R.C.No.5 of 2022 before the Court below and the Court below also dismissed the revision by an order dated 13.06.2023. Aggrieved by the same, the present petition has been filed before this Court.

5. Learned Additional Public Prosecutor submitted that investigation is still pending and that the Court below took into consideration the attitude of the petitioner in not properly complying with the conditions imposed by this Court while granting anticipatory bail to the petitioner.

6. *Per contra*, learned counsel for petitioner submitted that the condition imposed in the anticipatory bail petition was sought to be modified by the petitioner and ultimately, this Court also modified the condition and thereafter, the conditions were satisfied by the petitioner. Learned counsel, therefore, submitted that there was no willful intention on the part of the petitioner in not complying with the condition imposed by this Court while granting anticipatory bail.

7. It is seen from records that the vehicle was seized on 01.05.2022



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and it is more than a year, the vehicle is lying in the police station exposed to rain and shine. No useful purpose will be served in keeping the vehicle in police station and ultimately, the value of the vehicle will be lost. In view of the same, this Court is inclined to direct return of vehicle to the petitioner by imposing stringent conditions.

8. In view of the above, the order passed by learned Principal District Judge, Krishnagiri, in Crl.R.C.No.05/2022, dated 13.06.2023 confirming the order passed by learned Judicial Magistrate II, Hosur, in Crl.M.P.No.2610 of 2022, dated 25.07.2022 is set aside.

Accordingly, this Criminal Original Petition is disposed of in the following terms:

(a) the petitioner is directed to execute a bond for a sum of Rs.25,000/-

[Rupees Twenty Five Thousand only] along with two sureties for a like sum;

(b) the learned Magistrate shall take steps to take photographs of the vehicle



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and prepare a panchnama as directed by this Court in *Selvam v. State*

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- (c) the petitioner shall give an undertaking affidavit before the learned Magistrate to the effect that he will co-operate for the investigation.
- (d) the petitioner shall also give an undertaking before the Court below that the vehicle will not be sold or disposed of without getting proper permission from the Court below.
- (e) the petitioner shall also deposit the original RC Book of the vehicle before the learned Judicial Magistrate II, Hosur and shall produce the vehicle as and when required by the Court below.

20.09.2023

Note: Issue order copy by 22.09.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
rjr/gm

N. ANAND VENKATESH., J

gm



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- 1.The Principal District and Sessions Judge,
Krishnagiri.
- 2.The Judicial Magistrate II,
Hosur.
- 3.The Inspector of Police,
Hudco Police Station,
Krishnagiri District.
[Crime No.165 of 2022]
- 4.The Public Prosecutor,
High Court, Madras.

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