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Crl.O.P.No.26144 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.26144 of 2023

Boosanam @ Poosanam

... Petitioner/accused

Vs.

1.The State of Tamilnadu,
rep. by Sub Inspector of Police,
Tiruvalam Police Station,
Vellore District.
(Crime no.102/2023)

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to direct the District and Sessions Judge, Vellore to take on the file the Crl.MP(SR) No.11473 of 2023 filed by the petitioner praying to release his vehicle, Tipper Lorry bearing registration no.TN-23 CM-9248, seized in Cr No.102/2023(CP No.167/2023) dated 29/4/2023 and to dispose of the same on merits.

For Petitioner : Mr.D.Thirumoorthy

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Criminal Side)



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ORDER

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This petition is filed, seeking a direction to the District and Sessions Judge, Vellore to take up the matter in Crl.MP(SR) No.11473 of 2023 filed by the petitioner, seeking release of his vehicle, viz., Tipper Lorry bearing registration no.TN-23 CM-9248, seized in Cr.No..102/2023(CP No.167/2023) dated 29/4/2023 and to dispose of the same on merits.

2. The Vehicle of the petitioner was seized by the respondent police as it was involved in illicit transport of minerals (Morambu sand) and the same was produced before the learned Judicial Magistrate, Katpadi. When the petitioner sought for return of interim custody of the vehicle before the learned Judicial Magistrate, the Magistrate has returned the Application stating that offences under Mines and Minerals (Development and Regulation) Act, 1957 be tried by the Court of Sessions and therefore, he is not a competent authority to decide the Application for return of vehicle.

3. Then the petitioner has approached the District & Sessions Court, Vellore for the same relief and the District Court has also returned the



Application stating that FIR and other connected papers were not yet committed to the Court of Sessions, hence, not in a position to consider and decide about the Application. In such circumstances, the petitioner is now before this Court seeking a direction to the District & Sessions Court, Vellore to consider and dispose of the application.

4. Till the matter is committed to the Court of Sessions, the Magistrate has a jurisdiction to deal with the Application filed for return of property under Section 457 r/w 451 of Cr.P.C., in the light of the guidelines laid by the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat*** reported in ***(2002 10 SCC 219)***.

5. The vehicle seized by the police, is a Tipper Lorry and has been left in open exposed to rain and shine, the petitioner, if proves his ownership, can get the interim custody of the vehicle to avoid deprivation of the vehicle. Any such order, entrusting the interim custody of the vehicle shall be subject to proceedings of confiscation, if any.



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DR. G.JAYACHANDRAN.,
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6. Accordingly, this Criminal Original Petition is disposed of, directing the learned Judicial Magistrate, Katpadi to entertain the Application for return of vehicle subject to the above observations.

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01.12.2023

Index : Yes/No

Neutral Citation : Yes/No

To

1.The Sub Inspector of Police,
Tiruvalam Police Station,
Vellore District.

(Crime no.102/2023)

2.The Public Prosecutor,
High Court of Madras,
Chennai.

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