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Crl. O.P. No.26142 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.O.P No.26142 of 2023

Sivasankar

.. Petitioner

Vs.

State by,
The Sub Inspector of Police,
Tiruvalam Police Station,
Vellore District.
Crime No.102 of 2023

..Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to direct the District and Sessions Judge, Vellore to take on the file the Crl.M.P..Sr.No.11474/2023 filed by the petitioner praying to release his vehicle, JCB bearing registration number as TN 24 AK 2575 seized in Crime No.102/2023 (CP No.167/2023), dated 29.04.2023 and to dispose of the same on merits within the stipulated time frame.

For Petitioner	: Mr.D.Thirumoorthy
For Respondent	: Mr.Leonard Arul Joseph Selvam, Government Advocate (Crl.Side)

ORDER



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The Vehicle of the petitioner seized by the respondent police for illicit transport of minerals. The property submitted to 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.

2. Then the petitioner has approached the District Court for the same relief and the District Court has returned the Application stating that FIR and other connected papers not yet committed to the Court of Sessions, hence, not in a position to decide about the Application. In such circumstances, the petitioner is now before this Court seeking relief of return of interim custody of the Office vehicle.

3. Till the matter has committed to the Court of Sessions, the Magistrate has a jurisdiction to deal Application for return of property under Section 457 r/w 451 of Cr.P.C., taking into account, the guidelines laid by the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal***



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Desai Vs. State of Gujarat reported in ***(2002 10 SCC 219)***.

4. Being a motor vehicle, 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.

5. This Criminal Original Petition is ***disposed of***. The learned Judicial Magistrate, Katpadi is directed to entertain the Application for return of vehicle subject to the above observations.

30.11.2023

Internet : Yes/No
Index: Yes/No
rkp

Dr.G.JAYACHANDRAN, J.



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rkp

To

- 1.The District and Sessions Judge, Vellore.
- 2.The Judicial Magistrate,
Katpadi.
- 3.The Sub Inspector of Police,
Tiruvalam Police Station,
Vellore District.
- 4.The Public Prosecutor,
Madras High Court,
Madras.

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