



Crl.R.C.(MD) No.265 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.265 of 2023

Narayanan

... Petitioner/Petitioner

Vs.

The Sub-Inspector of Police,
Marthandam Police Station,
represented by the Public Prosecutor
Kanyakumari District
at Nagercoil.
(Crime No.158 of 2022)

...Respondent/Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records in Crl.M.P.No.6948 of 2022 on the file of the Principal Sessions Court, Kanyakumari District at Nagercoil dated 04.01.2023 and to set aside the order as far as concerned the onerous condition no.i) alone imposed and to modify the same.

For Petitioner : Mr.S.C.Herold Singh,

For Respondent : Mr.SS.Madhavan,
Government Advocate (Crl. side)



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ORDER

This Criminal Revision Petition is directed against the condition No.(i) imposed by the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil, in the order passed in Crl.M.P.No.6948 of 2022 dated 04.01.2023.

2. The petitioner claims to be the owner of Mahindra and Mahindra tipper tempo bearing Registration No.TN-74-V-7341. On 30.03.2022, the respondent police intercepted the vehicle viz., Mahindra and Mahindra tipper tempo bearing Registration No.TN-74-V-7341 and seized the vehicle as the same was used for transporting of illegal sand without any valid license or permit and registered a case in Crime No.158 of 2022 for the offences under Section 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act.

3. It is not in dispute that the petitioner has approached the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil, for returning of the said vehicle in Crl.M.P.No.6948 of 2022 and the learned Principal Sessions



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WEB COPY Judge, vide order dated 04.01.2023, has allowed the petition with certain condition that the petitioner shall execute a bond for a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) with two solvent sureties (solvency certificate to be obtained from the concerned Deputy Tahsildar) each for a likesum to the satisfaction of the Judicial Magistrate No.1, Kuzhithurai. Challenging the above said condition, the above Criminal Revision came to be filed before this Court.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner is not having any previous cases for similar offence and that the said vehicle was not involved in any other previous case.

6. The learned counsel appearing for the petitioner would submit that the petitioner's vehicle was never involved in any illegal activity and the respondent police without verifying the same has foisted the above false case. He would



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further submit that the petitioner's family is depending upon the income deprived from the above said vehicle.

7. The main grievances of the petitioner is that the condition imposed by the learned Principal Sessions Judge in directing the petitioner to execute a bond for a sum of Rs.10,00,000/- with two solvent sureties is onerous and that the value of the vehicle will be deteriorated due to the exposure to sun and rain.

8. Considering the above facts and circumstances of the case and also the fact that the petitioner's vehicle was not involved in any other case and also taking note of the submission made by the learned counsel appearing for the petitioner that the condition No.(i) imposed by the learned Principal Sessions Judge is onerous, this Court is inclined to modify the condition.

9. In the result, this Criminal Revision Petition is allowed. The order of the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil, made in Crl.M.P.No.6948 of 2022, dated 04.01.2023 is modified in respect of the condition No.(i) alone and it is modified to the effect that the petitioner is directed



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to execute a bond for a sum of **Rs.3,00,000/- (Rupees Three Lakhs only)** with two solvent sureties (solvency certificate to be obtained from the concerned Deputy Tahsildar) each for a likesum to the satisfaction of the Judicial Magistrate No.1, Kuzhithurai. In respect of other conditions, the order of the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil, shall remain unaltered.

06.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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K.MURALI SHANKAR, J.

csn

To:-

- 1.The Principal Sessions Judge,
Kanniyakumari District at Nagercoil.
- 2.The Sub-Inspector of Police,
Marthandam Police Station,
Kanyakumari District
at Nagercoil.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**ORDER MADE IN
Crl.R.C.(MD)No.265 of 2023**

06.03.2023