



Crl.R.C.(MD) No.454 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.454 of 2023

Promothi Rajan

... Petitioner/Petitioner/
2nd Accused

Vs.

The Inspector of Police,
Arumanai Police Station,
Arumanai,
Kanniyakumari District.
(Crime No.195 of 2022)

...Respondent/Respondent/
Complainant

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Code of Criminal Procedure, to call for the records of the order passed by the learned Principal Sessions Judge, Kanyakumari District at Nagercoil in Crl.M.P.No.226 of 2023 dated 12.01.2023 and modify the condition No.1 and further direct the learned Principal Sessions Judge, Kanyakumari District at Nagercoil to grant interim custody of the vehicle to the petitioner without insisting to produce the solvency certificate.



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

ORDER

This Criminal Revision 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.226 of 2023 dated 12.01.2023.

2. The petitioner claims to be the owner of KOMATSU PC71-2017 Model Excavator-Group-III-Type (Hitachi) bearing No.N220292. On 28.08.2022, the respondent police has registered a case in Crime No.195 of 2022 for the offence under Section 21(1) of Mines and Minerals (Development and Regulation) Act and seized the above said vehicle.

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.226 of 2023 and the learned Principal Sessions Judge, vide order dated 12.01.2023, has allowed the petition with certain condition that the petitioner shall execute a bond for a sum of Rs.15,00,000/-



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



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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.15,00,000/- 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 CrI.M.P.No.226 of 2023, dated 12.01.2023 is modified in respect of the condition No.(i) alone and it is modified to the effect that the petitioner is directed to execute a bond for a sum of **Rs.10,00,000/- (Rupees Ten Lakhs only)** with two sureties each for a likesum to the satisfaction of the Judicial Magistrate No.1,



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Kuzhithurai. In respect of other conditions, the order of the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil, shall remain unaltered.

25.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
csm

To:-

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



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K.MURALI SHANKAR, J.

csm

**ORDER MADE IN
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