



Crl.R.C.(MD) No.368 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.368 of 2023

Kumar

... Petitioner/Petitioner

Vs.

The State rep.by
The Sub-Inspector of Police,
Eraniel Police Station,
Kanniyakumari District.
(Crime No.592 of 2022)

...Respondent/Respondent

Prayer : This Criminal Revision has been filed under Section 397 and 401 of Criminal Procedure Code, to set aside and modify the first condition of the order in Crl.M.P.No.541 of 2023 in Crime No.592 of 2022, dated 24.01.2023, on the file of the learned Principal Sessions Judge, Kaniyakumari at Nagercoil.

For Petitioner : Mr.B.Muneeswaran

For Respondent : Mr.A.Albert James,
Government Advocate (Criminal side)



WEB COPY



Crl.R.C.(MD) No.368 of 2023

ORDER

This Criminal Revision Petition is directed against the condition No.(i) imposed by the learned Principal Sessions Judge, Kaniyakumari at Nagercoil, in the order passed in Cr.M.P.No.541 of 2023, dated 24.01.2023.

2. The petitioner claims to be the owner of the Tipper Tempo bearing Registration No.TN-59-F-6622. On 15.12.2022, the respondent police intercepted the vehicle viz., Tipper Tempo bearing Registration No.TN-59-F-6622 and seized the vehicle as the same was used for transporting of sand illegally without any valid license or permit and registered a case in Crime No.592 of 2022 for the offences under Section 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957.

3. It is not in dispute that the petitioner has approached the learned Principal Sessions Judge, Kanniyakumari District, for returning of the said vehicle in Cr.M.P.No.541 of 2023 and the learned Principal Sessions Judge, vide order dated 24.01.2023, has allowed the petition with certain conditions that the petitioner shall execute a bond for a sum of Rs.10,00,000/- with two



Crl.R.C.(MD) No.368 of 2023

solvent sureties (solvency certificate to be obtained from the concerned Deputy Tahsildar) each for a likesum to the satisfaction of the Judicial Magistrate, Eraniel and the petitioner shall deposit a sum of Rs.1,00,000/- before the concerned Court and on compliance of the condition, the above vehicle bearing Reg.No.TN-59-F-6622 shall be returned to the petitioner on interim custody. 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 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.

6. The main grievances of the petitioner is that the conditions imposed by the learned Principal Sessions Judge in directing the petitioner to execute a



Crl.R.C.(MD) No.368 of 2023

bond for a sum of Rs.10,00,000/- with two solvent sureties (solvency certificate to be obtained from the concerned Deputy Tahsildar) is onerous and that the value of the vehicle will be deteriorated due to the exposure to sun and rain.

7. 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.

8. In the result, this Criminal Revision Petition is allowed. The order of the learned Principal Sessions Judge, Kanniyakumari District, made in Cr.M.P.No.541 of 2021, dated 24.01.2023 is modified in respect of the condition No.(i) alone and it is modified to the effect that the petitioner is directed to deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** as non-refundable for the vehicle to the credit of the District Mineral Foundation Trust, Kanniyakumari District and on compliance of the condition, the above vehicle bearing Reg.No.TN-59-F-6622 shall be returned to the



Crl.R.C.(MD) No.368 of 2023

petitioner on interim custody on executing a bond for a sum of **Rs.3,00,000/-**
(Rupees Three Lakhs only) with two sureties for a likesum to the satisfaction
of the learned Judicial Magistrate, Eraniel. In respect of other conditions, the
order of the learned Principal Sessions Judge, Kanniyakumari District, shall
remain unaltered.

31.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
das

To

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



WEB COPY



Crl.R.C.(MD) No.368 of 2023

K.MURALI SHANKAR, J.

ORDER MADE IN
Crl.R.C.(MD)No.368 of 2023

31.03.2023