



CrI.RC.(MD).No.782 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	30.08.2023
Pronounced On	11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.RC(MD).No.782 of 2023

Muniyaraj

.. Petitioner

Vs.

The State rep.by
The Inspector of Police,
Maraneri Police Station,
Virudhunagar District.
(Crime No.107 of 2022)

.. Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the order passed in Cr.M.P.No.227 of 2023, dated 24.01.2023, on the file of the learned Principal District and Sessions Court, Virudhunagar District at Srivilliputhur and set aside the onerous condition alone to deposit Rs. 1,50,000/- to the petitioner's Tractor and Trailer Vehicle Nos:TN-31-K-6855 and TN-69-AS-2963, and to deposit Rs.2,00,000/- to the petitioner's JCB



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Vehicle No:TN-95-B-6629 before the Judicial Magistrate Court No.I,
Sivakasi within a stipulated time.

For Petitioner : Mr.R.Karunanidhi

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed against the condition No.1 imposed on the petitioner in Crl.M.P.No.227 of 2023 dated 24.01.2023, by the learned Principal District and Sessions Judge, Srivilliputrur, Virudhunagar.

2. The petitioner is the owner of Tractor bearing registration No.TN-31-K-6855 and the Trailer bearing registration No.TN-69-AS-2963 and the JCB bearing registration No.TN-95-B-6629. According to the petitioner, the petitioner's vehicles are said to have been involved for the offence under Sections 379 of IPC and r/w Section 21(1) of the Mines and Minerals (development and Regulation) Act, 1957.



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3. Pending investigation, the petitioner filed Crl.M.P.No.227 of 2023, on the file of the learned Principal District and Sessions Judge, Srivilliputtur, Virudhunagar District, under Section 451 of Criminal Procedure Code 1973, to return the vehicle.

4. The learned Principal District and Sessions Judge, Srivilliputtur, Virudhunagar District, allowed the petition filed by the petitioner with the following conditions:

(i)The petitioner is directed to surrender the original R.C.Books of the vehicles and also to deposit a sum of Rs.1,50,000/- in respect of Tractor and Trailer and a sum of Rs.2,00,000/- in respect of JCB before the Judicial Magistrate No-I, Sivakasi in Crime No.107 of 2022 of Maraneri Police Station, and on compliance of the condition, the above vehicle which was remanded in P.R.No.201 of 2022 on the file of the learned Judicial Magistrate No-I, Sivakasi shall be returned to the petitioner on interim custody.

(ii)Further, the petitioner shall execute a bond for the value of the vehicle to the satisfaction of this Court.

(iii)The petitioner shall file an undertaking affidavit that the vehicle will not be used in similar type of offence in future.

(iv)The petitioner should not alter the nature and character of the vehicles and he should not encumber or alienate the same without prior



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permission of the Court.

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Challenging the first condition imposed on the petitioner in Crl.M.P.No.227 of 2023, by the learned Principal District and Sessions Judge, Srivilliputtur, Virudhunagar District, the petitioner filed this Criminal Revision Case.

5. The learned counsel for the petitioner submitted that the conditions imposed on the petitioner to deposit a sum of Rs.1,50,000/- in respect of Tractor and Trailer and a sum of Rs.2,00,000/- in respect of JCB are onerous and he is ready and willing to deposit a sum of Rs.25,000/-. Further, he would submit that the petitioner also undertakes to execute bond to the value of Rs.1,50,000/- in respect of Tractor and Trailer and a sum of Rs.2,00,000/- in respect of JCB.

6. The learned Additional Public Prosecutor submitted that for the eight years, totally 63,542 vehicles are involved in the illegal mining and transportation of the minerals. Due to the incompetency of the investigating agency, the confiscation proceedings has not be initiated. Since, the Hon'ble Full Bench, held that the investigating agency has also power to initiate



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complaint under Section 21 of the MMDR Act, now the investigating agency is taking steps to file the confiscation petition. Even in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat*** reported in ***2003 (1) CTC 175***, the Hon'ble Supreme Court has held that while granting relief of interim custody, reasonable conditions to be imposed. Therefore, the Court below has imposed a reasonable conditions and hence, he seeks for dismissal of this Criminal Revision Case.

7. This Court considered arguments of the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the materials available on record.

8. Since confiscation proceeding has not been initiated in this case, the order of the learned trial Judge, to release the vehicle, is in accordance with law.

9. According to the petitioner, the value of the vehicle is not more than the condition imposed on the petitioner by the trial Court and the same



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is onerous one. Further he is ready to deposit a sum of Rs.25,000/- in respect of each vehicle and he undertakes to execute bond to the value of Rs.1,50,000/- in respect of Tractor and Trailer and a sum of Rs.2,00,000/- in respect of JCB. The submission of the learned counsel for the petitioner is *bona fide* one and deserves to be accepted.

10. Accordingly this criminal revision case is partly allowed with the following directions:

(i) Condition No.1, imposed on the petition is modified and the petitioner shall execute a bond for a sum of Rs.1,50,000/- in respect of Tractor and Trailer and a sum of Rs.2,00,000/- in respect of JCB within a period of two weeks from the date of receipt of a copy of this order to the satisfaction of the Judicial Magistrate No-I, Sivakasi.

(ii) The petitioner shall deposit a sum of Rs.25,000/- in respect of each vehicle, to the credit of the Crime No.107 of 2022, within a period of two weeks from the date of receipt of a copy of this order and on such deposit, the Court below shall redeposit the same in any one of the nationalized bank in the interest bearing account.



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(iii) The remaining conditions imposed by the trial Court, shall remain unaltered.

(iv) The petitioner shall deposit a sum of Rs.5,000/- in respect of each vehicles (non refundable) within a period of two weeks from the date of receipt of a copy of this order, to the account to be opened by the Registrar Judicial, Madurai Bench of Madras High Court, Madurai, in the Indian Bank, High Court Branch, Madurai, as indicated in the Hon'ble Division Bench in W.P.(MD).No.236836 of 2023.

(v) The investigating officer, is directed to initiate the confiscation proceedings before the learned Principal District and Sessions Judge, Srivilliputtur, Virudhunagar District, within a period of thirty days from the date of receipt of a copy of this order.

(vi) The learned Principal Judge upon receiving such application, shall number the petition as a criminal miscellaneous petition and dispose same as expeditiously as possible, preferably within a period of six months from the date of the presentation of the petition.



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11. List this case on 15.11.2023, for “reporting compliance”.

11.10.2023

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

sbn

To

- 1.The Inspector of Police,
Maraneri Police Station,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai

Note: Issue order copy on 16.10.2023.



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K.K.RAMAKRISHNAN, J.

sbm

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