



CrI.RC.(MD).No.1024 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	13.09.2023
Pronounced On	11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.RC.(MD).No.1024 of 2023

Kathiresan

.. Petitioner

Vs.

The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
(Crime No.322 of 2022)

.. Respondent

PRAYER:Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the order passed by the learned Principal Sessions Judge, Sivagangai in Cr.M.P.No.315 of 2023 dated 31.01.2023 and to set aside the condition No.1.

For Petitioner : Mr.C.Susi Kumar

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



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ORDER

This Criminal Revision Case has been filed against the condition No.1 imposed on the petitioner in Crl.M.P.No.315 of 2023 dated 31.01.2023, by the learned Principal District and Sessions Judge, Sivagangai.

2. The petitioner is the owner of the Lorry bearing registration No.TN-63-F-8611. According to the petitioner, the petitioner's vehicle is said to have been involved for the offence under Sections 379 of IPC and r/w Section 21(1) of Mines and Minerals (Development and Regulations) Act.

3. Pending investigation, the petitioner has filed Crl.M.P.No.315 of 2023, on the file of the learned Principal and Sessions Judge, Sivagangai, under Section 451 of Criminal Procedure Code 1973, to return the vehicle for interim custody.

4. The learned Principal Sessions Judge, Sivagangai, allowed the petition filed by the petitioner with the following conditions:



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(i)The petitioner shall deposit the Original of Registration certificate of the vehicle to the District Munsif cum Judicial Magistrate Court, Thiruppuvanam;

(ii)The petitioner shall deposit a sum of Rs. 50,000/- before the District Munsif cum Judicial Magistrate Court, Thiruppuvanam, in Cr.No.322 of 2022 within a period of three weeks from the date of receipt of a copy of this Order.

(iii)The petitioner shall not make any alteration of the vehicle.

(iv)The petitioner shall not alienate the vehicle

(v)the petitioner shall produce the same before the Court as and when required untill further order is passed in the confiscation proceedings.

(vi)The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle. If the petitioner concerned is an agreement holder and the R.C.Book is with the financier he or she can be permitted to produce the photocopies of the relevant document and if the vehicle is a new one, sales invoice can be produced.

(vii)The petitioner/owner of the vehicle should take photos with different angles of the concerned vehicle and that photo should be copied the C.D.and it should be certified by the learned counsel appearing for the petitioner/owner of the vehicle along with the petitioner/owner of the vehicle on the back of the photos and shall be submitted before the concerned Court; and

(viii)The petitioner /owner of the vehicle shall not take the vehicle out side the district without the permission of the Court and the petitioner owner of the vehicle should produce the vehicle when the court directs him



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Challenging the first condition imposed on the petitioner in Crl.M.P.No.315 of 2023, by the learned Principal District and Sessions Judge, Sivagangai, the petitioner has filed this Criminal Revision Case.

5. The learned counsel for the petitioner submitted that the condition imposed on the petitioner to deposit a sum of Rs.50,000/- is onerous and he is ready and willing to deposit a sum of Rs.25,000/-. He would further submit that the petitioner also undertakes to execute bond to the value of Rs.50,000/-. Hence, he seeks to allow this case.

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 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***



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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 a sum of Rs.50,000/-. Therefore, the condition imposed on the petitioner to deposit a sum of Rs.50,000/- is onerous. Further, he is ready to deposit a sum of Rs.25,000/- and he undertakes to execute a bond to the value of Rs.50,000/-. Hence, the submission of the learned counsel for the



petitioner is *bona fide* one and deserved to be accepted.

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

(i) Condition No.1, imposed on the petitioner is modified and the petitioner shall execute a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand Only) within a period of two weeks from the date of receipt of a copy of this order, to the satisfaction of the District Munsif Cum Judicial Magistrate Court, Thiruppuvanam;

(ii) The petitioner shall deposit a sum of Rs.25,000/- to the credit of the crime No.322 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 re-deposit the same in any one of the nationalized bank in the interest bearing account.

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

(iv) The petitioner shall deposit a sum of Rs.5,000/-(non refundable) within a period of two weeks from the date of receipt of a copy



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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, sivagangai, 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 the same as expeditiously as possible, preferably within a period of six months from the date of the presentation of the petition.

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

11.10.2023

NCC :Yes/No

Index :Yes/No

Internet :Yes/No

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Note: Issue order copy on 17.10.2023

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



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K.K.RAMAKRISHNAN, J.

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