



Crl.RC(MD).No.808 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	30.08.2023
Pronounced On	11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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S.Rajeesh

.. Petitioner / 2nd Accused

Vs.

The State rep.by
The Inspector of Police,
Kotticode Police Station,
Kanniyakumari District.
(Crime No.31 of 2023)

.. Respondent / Complaint

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the entire records pertaining to the order passed by the learned Principal District and Sessions Judge, Kanniyakumari District at Nagercoil in Crl.M.P.No.3309 of 2023 vide order dated 27.06.2023 and modify the condition imposed in Condition Nos.1 & 2.

For Petitioner : Mr.A.M.B.Mathubalan

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.3309 of 2023 dated 27.06.2023, by the learned Principal Sessions Judge, Nagercoil, Kanyakumari District.

2. The petitioner is the owner of the vehicle Ashok Leyland Tipper bearing registration No.TN-75-E-7602. 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 Regulation) Act.

3. Pending investigation, the petitioner filed Crl.M.P.No.3309 of 2023, on the file of the learned Principal Sessions Judge, Nagercoil, Kanyakumari District, under Section 451 of Criminal Procedure Code 1973, to return the vehicle for interim custody

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

*(i)The petitioner shall deposit a sum of Rs.2,00,000/-
(Rupees Two Lakhs only) before the Judicial Magistrate No-I,
Padmanabhapuram.*

(ii)The petitioner shall produce the original R.C.book and



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photograph of the vehicle before the Judicial Magistrate Court No-I, Padmanabhapuram.

(iii)The petitioner shall produce the vehicle before the Court as and when required.

(iv)The petitioner should not alter the nature of the vehicle without any permission of this Court.

(v)The petitioner shall not alienate the vehicle in any manner.

(vi)The petitioner shall give an undertaking that he will not use the vehicle for any other illegal activities in future.

(vii)The petitioner shall produce the vehicle before the Judicial Magistrate Court No-I, Padmanabhapuram on the first working day of every month at 10.30 a.m., until further orders.

Challenging the first and second conditions imposed on the petitioner in Crl.M.P.No.3309 of 2023, by the learned Principal Sessions Judge, Nagercoil, Kanyakumari, the petitioner filed this Criminal Revision Case.

5. The learned counsel for the petitioner submitted that the learned trial

Judge has failed to consider that the vehicle which has been seized in the present



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case is nothing but commercial vehicle, which is being used for commercial purposes, handing over the original RC Book will cause great hindrance to the petitioner who is using for commercial purpose as carrying of the original RC Book is necessary whenever the vehicle is used for transportation to other states. Hence, he unable to produce the original RC Book. He further submitted that the direction to deposit a sum of Rs.2,50,000/- is onerous. He is ready to deposit a sum of Rs. 25,000/- and undertakes to execute the bond to the value of Rs.2,00,000/-.

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 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.



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

9. According to the petitioner, he is not in a position to produce the original RC book of his vehicle. The value of the vehicle is also not more than a sum of Rs. 2,00,000/-. Hence, the condition imposed on the petitioner to deposit a sum of Rs. 2,00,000/- is onerous. Further, he is ready to deposit a sum of Rs.25,000/- and undertakes to execute the bond to the value of Rs.2,00,000/-. Therefore, the submission of the learned counsel for the petitioner is *bona fide* one and deserves to be accepted.

10. Accordingly this 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.2,00,000/-(Rupees two Lakh Only) 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, Padmanabhapuram;



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(ii) Condition No.2, imposed on the petitioner is modified and the petitioner shall produce the Xerox copy of the RC book to the before the concerned Judicial Magistrate.

(iii) Condition No.7, imposed on the petitioner i.e., the petitioner shall produce the petition mentioned vehicle before the Judicial Magistrate No-I, Padmanabhapuram, on the first working day of every English Calender month.

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

(v) The petitioner shall deposit a sum of Rs.25,000/- to the credit of the Crime No.31 of 2023, 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.

(vi) 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 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.23683 of 2023.

(vii) The investigating officer, is directed to initiate the confiscation



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proceedings before the learned Principal Sessions Judge, Nagercoil, Kanyakumari District, within a period of thirty days from the date of receipt of a copy of this order.

(viii) 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”.

Sd/-

Assistant Registrar(AD II)

// True Copy //

16/10/2023

Sub Assistant Registrar(CS)

sbm

To

- 1.The Principal Sessions Judge,
Kanniyakumari District at Nagercoil.
- 2.The Judicial Magistrate No.I,
Padmanabhapuram.
- 3.The Inspector of Police,
Kotticode Police Station,
Kanniyakumari District.



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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To

1.The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.

2.The Section Officer,
Criminal Section (Posting),
Madurai Bench of Madras High Court,
Madurai.

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KSR/16.10.2023 8P 7C

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