



Crl.O.P(MD)No.14178 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2023

CORAM

THE HONOURABLE DR.JUSTICE D.NAGARJUN

Crl.O.P(MD)No.14178 of 2023

S.Subramaniam

... Petitioner

Vs

The State rep. by
The Forest Ranger Officer,
Boothapandi Range, Aralvoimozhi,
Kanyakumari District.
(W.L.O.R.No.5 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the learned Principal Sessions Judge, Kanyakumari District at Nagercoil in Revision Petition No.9 of 2023 dated 03.07.2023 confirming the order passed by the Special Judge for Forest Offence Cases, Nagercoil in Crl.M.P.No.93 of 2023 dated 05.05.2023.

For Petitioner : Mr.M.Suri
For Respondent : Mr.S.S.Madhavan
Government Advocate (Crl.side)

ORDER

This petition is filed by invoking the provision under Section 482 of Cr.P.C., challenging the orders passed by the learned Special Judge for Forest Offence Cases, Nagercoil in Crl.M.P.No.93 of 2023 in W.L.O.R.No.5/2023 in

R.P.No 8 of 2023.

<https://www.mhc.tn.gov.in/judis>



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2. The petitioner is a practicing Advocate. He is alleged to have committed the offences under Sections 9, 39, 50, 51, 57 of the Wild Life (Protection) Act 1972 and Sections 7(A), 25(ia), 31 of the Indian Arms Act 1959. During the course of investigation, the Forest officials have seized the petitioner's motor car bearing Registration No.TN-74-AT-0572 and the mobile phone of Apple make on 19.04.2023, when the petitioner and others were allegedly present in Survey Nos.732 and 727 of South Karungulam Village.

3. The petitioner has moved an application in Crl.M.P.No.93 of 2023 under Section 451 of Cr.P.C., on the file of the Special Judge for Forest Offences, Nagercoil for interim custody of motor car and mobile phone and the same was disposed of on 05.05.2023 with following conditions:

“1. The petitioner shall execute a bond for Rs.4,00,000/- along with one surety for a like sum to the satisfaction of this court.

2.The petitioner shall give an undertaking that he will not use the above said vehicle and mobile phone for any illegal activities in future and shall produce the same as and when required by the respondent for the conduct of the trial.

3. The petitioner shall produce the above said vehicle and the mobile phone before this court as and when required and also for the trial.



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4.The petitioner should take photographs of the above said vehicle and the mobile phone and should submit the photographs along with CD and the original R.C.Book at the time of furnishing sureties.

5.Before handing over possession of the above said vehicle and the mobile phone to the petitioner, the respondent shall take appropriate photographs of the above said vehicle and mobile phone along with C.D.,

6.The petitioner is restrained from any type of alteration, pledge, sale, hypothecation etc., of the above said vehicle and the mobile phone without the permission of this court and until further orders.”

4. Aggrieved by the same, the petitioner has filed the Revision Petition No.9 of 2023 on the file of the Principal Sessions Judge, Kanyakumari District. The said revision was dismissed. Aggrieved by the same, the present petition is filed.

5. It is submitted by the learned counsel for the petitioner that out of 6 conditions imposed by the trial court while allowing the application filed under Section 451 of Cr.P.C, the petitioner is aggrieved in respect of two conditions, namely, condition No.3 and condition No.6. Insofar as the condition No.3 is concerned, the trial court has directed the petitioner to produce the motor vehicle and mobile phone before the Court as and when directed during



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the course of trial. Condition No.6 speaks that the petitioner shall not make any alteration to the vehicle and shall not hypothecate the same without permission of the Court until further orders.

6. According to the petitioner, the motor car and mobile phone are no more required during the course of investigation and since directions are already given to the investigating agency to take photographs of the motor car and mobile phone and submit them along with CD and original RC book, there is no necessity for imposing the condition not to either sell or hypothecate and produce the vehicle and mobile phone as and when required.

7. The learned Additional Government Pleader appearing the respondents, on the other hand, submitted that the investigation is still pending and even during the course of trial, motor vehicle and mobile phone are required and therefore, imposing of the conditions are justified.

8. There is no dispute that the petitioner is the owner of the motor vehicle and also the mobile phone of apple making. One of the contentions of the petitioner is that the motor vehicle and mobile phone were not used for the commission of the offence. However, the facts of the case as narrated by the learned Additional Government Pleader would go to show that the vehicle was



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used by the petitioner and others in the scene of occurrence and that mobile phone is also used.

9. Section 451 Cr.P.C., specifically speaks about the interim custody. The petitioner who has chosen to file an application under Section 451 Cr.P.C., is expected to abide by the conditions in respect of the conditions imposed to the effect that he shall not alter or hypothecate or change or sale the motor vehicle and mobile phone till the trial is completed and produce the same as and when required.

10. The very argument of the petitioner that the petitioner has not used the vehicle in commission of the offence itself would go to show that there is a conflict to the submission made by the petitioner as well as the prosecution. Since the prosecution alleged that the petitioner has used the motor vehicle and mobile phone in the commission of the offence and since the petitioner denies the same, the prosecution has to prove the same unless the vehicle or mobile phone are available during the course of trial, the prosecution will not able to prove the same.

11. Considering the circumstances explained and on hearing both sides and perusal of the documents, records, this petition is allowed in part



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directing the respondents to grant interim custody of the vehicle bearing Registration No.TN-74-AT-0572 and the mobile phone of Apple make ordered to be released in favour of the petitioner for interim custody under the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.4,00,000/- to the satisfaction of the trial Court. The petitioner is directed to submit the original RC book and to give an undertaking that he shall not alter, change, hypothecate, pledge or sale of the motor car and mobile phone and produce the same as and when required during the course of trial.

12. With the above modification, this petition is partly allowed.

14.09.2023

NCC:yes/no

Index:yes/no

Internet:yes/no

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Note: Issue order copy on 20.09.2023

To

- 1.The Forest Ranger Officer,
Boothapandi Range, Aralvoimozhi,
Kanyakumari District.
- 2.The Principal Sessions Judge,
Kanyakumari District at Nagercoil.
- 3.The Special Judge for Forest Offence Cases,
Nagercoil



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DR.D.NAGARJUN, J.

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