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Crl.R.C.No.2146 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2146 of 2024

Krishnamoorthi

...

Petitioner

Vs.

The State rep by,
Inspector of Police,
Keelaiyur Police Station,
Nagapattinam District.
(Crime No.144 of 2024)

...

Respondent

Prayer: Criminal Revision Petition filed under Sections 438 r/w 442 of Bharatiya Nagarik Suraksha Sanhita, 2023 to set aside the conditional order made in Crl.MP No.614 of 2024 dated 27.09.2024 on the file of the learned District Munsif cum Judicial Magistrate Court, Kilvelur, in Point 6 clause (iii) to deposit Rs.2,00,000/- and clause (iv) to produce the RC Book.

For Petitioner : Ms.Andrea for
Mr.K.Pragadeesh Kumar

For Respondent : Mr.S.Udaya Kumar
Govt. Advocate (Crl.side)



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ORDER

The petitioner challenges the condition imposed by the learned Magistrate while allowing his petition for return of the lorry which was seized during the investigation in Crime No.144 of 2024 on the file of the respondent.

2. The petitioner is the owner of the lorry. He is an accused in the aforesaid FIR for the offences under Section 303(1) of BNSS, 2023 r/w 21(1) of Mines and Minerals (Development and Regulation) Act 1957. He is said to have transported sand in the lorry. The petitioner filed petition for return of vehicle which was allowed by the learned Magistrate *inter alia* on certain conditions. Two of conditions in the said order are that the petitioner shall deposit Rs.2,00,000/- before the trial court (refundable) and produce original copy of RC Book of the case property.

3. The learned counsel for the petitioner would submit that the petitioner is aggrieved by the aforesaid conditions and submitted that the petitioner is willing to execute a bond, as directed by the learned Magistrate with one surety for the likesum; and that the condition imposed by the



learned Magistrate to deposit a sum of Rs.2,00,000/- is onerous; and that the value of the lorry which is manufactured in the year 1999 is very low and because of the above condition imposed by the learned Magistrate, the petitioner is unable to take return of the lorry; and that he would produce RC Book before the learned Magistrate for verification and he may be permitted to retain the original RC Book, as it is required to ply the vehicle.

4. The learned Government Advocate (crl.side), per contra submitted that the petitioner may be directed not to alienate the lorry, pending trial and submitted that the confiscation proceedings are yet to be initiated. The learned Government Advocate (crl.side) further submitted that the original RC book may be produced before the learned Magistrate for verification.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (crl.side) for the respondent and perused the records.

6. In the light of the submissions made by either side, this court is of the view that the condition imposed by the learned Magistrate to deposit a sum of Rs.2,00,000/- before the trial court is onerous and would amount to denial of the petitioner's claim for return of vehicle which cannot be kept in



the police station for a long time, as held by the Hon'ble Supreme Court.

Further, as rightly contended by the learned counsel for the petitioner, the original R.C. Book may be required for the petitioner to ply the vehicle.

7. In the above circumstances, this Court is of the considered view that the conditions imposed by the learned Judicial Magistrate to deposit a sum of Rs.2,00,000/- and to produce the original R.C. Book of the vehicle are onerous and liable to be set aside. However, the petitioner is directed to produce the original RC Book for verification.

8. Accordingly, this Criminal Revision Case is allowed and the conditional order dated 27.09.2024 at Point No.6, clause (iii) to deposit a sum of Rs.2,00,000/- and clause (iv) to produce the RC Book, made in Crl.M.P.No.614 of 2024 by the learned District Munsif cum Judicial Magistrate Court, Kilverlur is set aside. The other conditions imposed by the learned Judicial Magistrate shall remain unaltered. The condition nos.(iii) and (iv) imposed by the learned Magistrate in Crl.MP No.614 of 2024 dated 27.09.2024 is modified as follows -



CrI.R.C.No.2146 of 2024

(i) The petitioner shall execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for a likesum to the satisfaction of the learned District Munsif cum Judicial Magistrate Court, Kilverlur ;

(ii) The petitioner shall produce the original RC Book along with a self-attested Photostat copy of the RC Book of the vehicle and other relevant records to prove his ownership. The learned District Munsif cum Judicial Magistrate Court, Kilverlur shall peruse the RC book and other records, retain a xerox copy of the same and return the original RC book to the petitioner;

04.12.2024

Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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Crl.R.C.No.2146 of 2024

SUNDER MOHAN, J.

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To

1.The State rep by,
Inspector of Police,
Keelaiyur Police Station,
Nagapattinam District.

2.The District Munsif cum Judicial Magistrate,
Kilvelur, Nagapattinam District.

3.The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.2146 of 2024

04.12.2024