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Crl.R.C.No.1951 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

THE HONOURABLE MR.JUSTICE **SUNDER MOHAN**

Crl.R.C.No.1951 of 2024

Venkatesan

...

Petitioner

Vs.

The State Rep.by its
The Inspector of Police,
Ulundurpet Police Station,
Kallakurichi

...

Respondent

Prayer: Criminal Revision Petition is filed under Section 438 read with 442 of Bharatiya Nagarik Suraksha Sanhita, 2023 BNSS to set aside the order dated 15.10.2024 made in Crl.M.P.No.3336 of 2024 on the file of file of the Learned Judicial Magistrate No.I, Ulundurpet at Kallakurichi District.

For Petitioner : Mr.V.Parthiban
For Respondent : Mr.V.J.Priyadarsana
Govt.Advocate (crl.side)

ORDER

The revision challenges the dismissal order passed by the learned Magistrate dismissing the petitioner's application filed under Section



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497 of BNSS for return of his lorry which was seized during the investigation in Crime No.582 of 2024 on the file of the respondent.

2. The petitioner is the accused in the above said Crime Number registered for the offence under Section 302 (2) of BNSS r/w 21(1) of Mines and Minerals (Development & Regulation) Act. During the course of investigation, the petitioner's Tipper Lorry bearing Regn.No.TN67 H 4959 was seized by the respondent as three units of pebble stones was transported in the lorry.

3. The learned counsel appearing for the petitioner would submit that the seizure was made on 31.08.2024; that ever since then, the vehicle is in the custody of the respondent; that the vehicle is kept idle in an open place subject to vagaries of weather which is likely to diminish its value; that the petitioner is the owner of the vehicle and that the vehicle may be returned to him on any stringent conditions.

4. The learned Government Advocate (crl.side), per contra, submitted that the petitioner is an accused in the above crime number;



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that the respondent had seized the vehicle since it was involved in the offence and that the confiscation proceedings are yet to be initiated.

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

6. Admittedly, the petitioner is the owner of the vehicle bearing Regn.No.TN67 H 4959. Although the petitioner is an accused, this court is of the view that since the vehicle cannot be kept idle at the police station for a very long time. The petitioner would be the proper person entitled to interim custody. However, since the respondent is likely to initiate confiscation proceedings, the vehicle can be returned to the petitioner on stringent conditions, pending disposal of the trial. In the above said circumstances, this Court is inclined to return the vehicle to the petitioner. It is needless to state that if the vehicle is used once again for the commission of any offence, no indulgence would be shown to the petitioner.



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WEB COPY 7. Accordingly, this **Criminal Revision Case is allowed** and the impugned order dated 15.10.2024 made in Crl.M.P.No.3336 of 2024 on the file of the Learned Judicial Magistrate No.I, Ulundurpet at Kallakurichi District is set aside. In view of the same, the respondent is directed to return the vehicle to the petitioner on the following conditions -

(i) The petitioner shall execute a personal bond for a sum of Rs.5,00,000/- (Rupees Five lakhs only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.I, Ulundurpet at Kallakurichi ;

(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 Judicial Magistrate No.I, Ulundurpet at Kallakurichi shall peruse the RC book and other records, retain a xerox copy of the same and return the original RC book to the petitioner;

(iii) The petitioner shall not alter or alienate the vehicle in any manner;



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(iv) The petitioner shall also give an undertaking that he will produce the vehicle as and when required by the respondent and by the court below.

(v) The return of property would be subject to the result of the confiscation proceedings, if any.

18.11.2024

Index : Yes/No
Neutral Citation : Yes/No
Speaking order/Non-speaking order
rgr

To

1.The Judicial Magistrate No.I,
Ulundurpet at Kallakurichi

2.The Inspector of Police,
Ulundurpet Police Station,
Kallakurichi

3.The Public Prosecutor,
High Court of Madras,
Chennai.



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SUNDER MOHAN, J.

rgt

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