



Crl.R.C.No.2184 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2184 of 2024

Mahendiran

... Petitioner

Vs.

The state represented by,
The Inspector of Police,
Thirunavalur Police Station,
Kallakurichi District.
(Crime No.448 of 2024)

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 438 r/w 442 of BNSS, to set aside the order dated 09/09/2024 made in Crl.M.P.No.2946 of 2024 on the file of the learned Judicial Magistrate No.II, Ulundurpet at Kallakurichi District by allowing this petition.

For Petitioner : Mr.S.Mageshkumar

For Respondent : Mr.S.Udaya Kumar,
Government Advocate (Crl. Side)



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ORDER

This Criminal Revision Case has been filed challenging the impugned order, dated 09.09.2024 in C.M.P.No.2946 of 2024 passed by the learned Judicial Magistrate No.II, Ulundurpet dismissing the petitioner's petition filed under Section 497 of BNSS for return of JCB vehicle bearing Reg.No.TN-38-CK-4303.

2.The petitioner is said to be involved in the offence under Section 303(2) of BNS r/w 21(1) of Mines and Minerals (Development and Regulation) Act for transporting river sand in the JCB vehicle referred above. The vehicle was seized during the course of investigation on 17.08.2024. The petitioner filed a petition seeking return of vehicle before the learned Judicial Magistrate No.II, Ulundurpet and the same was dismissed for the reason that the petitioner has not made out any ground for return of vehicle.

3.The learned counsel for the petitioner would submit that the



petitioner is the registered owner of the JCB vehicle; that from the date of seizure, the vehicle is kept in an open place and exposed to sun and rain; that it would lose its utility value and hence should be returned to him, as he is the person entitled to the interim custody.

4.The learned Government Advocate (Crl. Side) on instructions would submit that the confiscation proceedings is yet to be initiated.

5.It is seen that the vehicle was seized by the respondent Police on 17.08.2024 and is kept in an open place under the custody of the respondent Police. The Hon'ble Supreme Court and this Court had repeatedly held that the vehicle cannot be subjected to the vagaries of weather and can be returned to the person entitled to the custody subject to stringent conditions.

6.In the light of the above submissions and considering the fact that the petitioner is the registered owner of the vehicle, this Court is inclined to grant interim custody of the JCB vehicle to the petitioner subject to the result of the confiscation proceedings, if any initiated.



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7. Accordingly, the impugned order, dated 09.09.2024 in C.M.P.No.2946 of 2024 passed by the learned Judicial Magistrate No.II, Ulundurpet is set aside. Accordingly, the learned Judicial Magistrate No.II, Ulundurpet is directed to return the JCB Vehicle bearing Reg.No.TN-38-CK-4303 to the petitioner on the following conditions:

(i) The petitioner shall execute a bond for sum of Rs.10,00,000/- (Rupees Ten Lakh only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Ulundurpet;

(ii) The petitioner shall produce the original RC Book along with self attested photostat copy of RC Book of the vehicle and other relevant records to prove her ownership. The learned Magistrate shall peruse the RC book and other records, retain 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;

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



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7. In the result, this criminal revision case stands allowed. It is made clear that the above return of vehicle is subject to the outcome of the confiscation proceedings if any initiated.

05.12.2024

Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No

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To

1. The Judicial Magistrate No.II,
Ulundurpet.
2. The Inspector of Police,
Thirunavalur Police Station,
Kallakurichi District.
3. The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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