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Crl.R.C.No.2265 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2265 of 2024

Viswanathan

... Petitioner/Accused

vs.

State by

Inspector of Police,

Tiruvalam Police Station,

Vellore Distirct.

Crime No.261/2024

...Respondent/complainant

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to set aside the order dated 03.09.2024 passed by the learned Judicial Magistrate, Katpadi in C.M.P.No.2280 of 2024 in Crime No.261 of 2024 and direct to release the Ashok Leyland Tipper Lorry bearing Registration No.TN-55-AK-4002 by allowing this Criminal Revision Petition.

For Petitioner : Mr.D.Thirumoorthy

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



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ORDER

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The revision challenges the dismissal of the petitioner's application for return of the vehicle bearing Registration No.TN-55-AK-4002.

2. The allegation against the petitioner is that he has used the lorry bearing Regn.No.TN-55-AK-4002 to transport 6 units of gravel sand and thus committed the offence under Sections 303(2) and 326 (a) of BNS Act. During the course of investigation, the said vehicle was seized by the respondent on 01.08.2024. The petitioner sought for return of property, which was dismissed by the trial Court on the ground that the offences are serious in nature and since the investigation is pending, the vehicle cannot be returned.

3. The learned counsel for the petitioner would submit that the vehicle is kept idle in the police station, it is subject to the vagaries of weather and it would become a scrap and even if confiscation proceedings are initiated, later it would not fetch any money; that the petitioner is ready to



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comply with any stringent condition that this Court may impose; and hence, prayed for return of the vehicle.

4. The learned Government Advocate (Crl.Side), on instructions, submitted that the confiscation proceedings is yet to be initiated; and that there are no previous cases pending against the petitioner.

5. Considering the submissions made on either side and since admittedly, the petitioner is the owner of the lorry and there are no previous cases pending against the petitioner, this Court is of the view that the vehicle cannot be kept idle in an open space and its value cannot be allowed to be diminished as held by the Hon'ble Supreme Court. Therefore, the interim custody of the vehicle can be handed over to the petitioner on stringent conditions.

6. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 03.09.2024 passed by the learned Judicial Magistrate, Katpadi in C.M.P.No.2280 of 2024 in Crime No.261 of 2024 is set aside. In



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view of the same, the respondent is directed to return the vehicle viz., Ashok
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Leyland Tipper Lorry bearing Registration No.TN-55-AK-4002 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, Katpadi;

(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, Katpadi, 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;

(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.



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(v) The return of property would be subject to the result of the confiscation proceedings, if any initiated by the respondent in future.

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Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To

1.The Judicial Magistrate,
Katpadi.

2.Inspector of Police,
Tiruvalam Police Station,
Vellore Distirct.

3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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