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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.16972 of 2024

Sundaramahalingam : Petitioner

Vs.

The Inspector of Police,
Rajathani Police Station,
Theni District.
Crime No.138 of 2024. : Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the order passed by the learned Principal District Judge, Theni in Criminal Revision Case No.23 of 2024, dated 10.09.2024 and set aside the same.

For Petitioner : Mr.P.Senguttuarasan

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition is directed against the order passed by the learned Principal District Judge, Theni in Criminal Revision Case No.23 of 2024, dated 10.09.2024.

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2. The petitioner claims to be the owner of the vehicle/Tractor bearing Reg.No.TN-57-BQ-1693 and Trailer (without registration number). On 18.06.2024, the respondent police intercepted the vehicle bearing Reg.No.TN-57-BQ-1693 and seized the vehicle as the same was used for transporting sand illegally without any valid license or permit and registered a case in Crime No.138 of 2024 for the offence under Section 379 of IPC and Section 21(4) of Mines and Minerals (Development & Regulation)Act, 1957.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate, Aundipatti, for returning of the said vehicle in Crl.M.P.No.3481 of 2024 and the learned Judicial Magistrate, vide order dated 23.07.2024, has dismissed the petition. Challenging the dismissal order, the petitioner has filed a Criminal Revision in Crl.R.C.No.23 of 2024 and the learned Principal District Judge, vide order, dated 10.09.2024, dismissed the revision by confirming the order of the learned Judicial Magistrate, Aundipatti, dated 23.07.2024. Aggrieved by the order of dismissal, the above Criminal Original Petition has been filed.

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4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the State.

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner is not having any previous cases for similar offence and that the said vehicle was not involved in any other cases.

6. The learned counsel appearing for the petitioner would submit that the Tractor bearing Reg.No.TN-57-BQ-1693 and Trailer (without registration number) is owned by the petitioner, that the said vehicle has no connection whatever with the alleged occurrence, that if the vehicle is kept in open place, the value of the said vehicle will get deteriorated and that therefore interim custody may be granted to the petitioner.

7. Considering the facts and circumstances of the case and also the fact that if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in

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keeping the vehicle in custody, this Court is inclined to allow the revision.

8. Accordingly, this Criminal Original Petition is allowed and the order dated 10.09.2024 passed in Crl.R.C.No.23 of 2024 by the learned Principal District Judge, Theni, is hereby set aside and the vehicle/Tractor bearing Reg.No.TN-57-BQ-1693 and Trailer (without registration number), is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

(a) the petitioner is directed to deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Theni District;

(b) the petitioner shall execute a bond for a sum of **Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only),** with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Aundipatti ;

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(c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate, Aundipatti;

(d) the petitioner shall not alienate and shall not make any alteration in the vehicle;

(e) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

04.10.2024

NCC : Yes/ No
Index :Yes/No
Internet : Yes/ No
das

To

1.The Principal District Judge,
Theni.

2.The Judicial Magistrate, Aundipatti.

3.The Inspector of Police,
Rajathani Police Station,
Theni District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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K.MURALI SHANKAR,J.

DAS

Order made in
Crl.O.P.(MD)No.16972 of 2024

Dated: 04.10.2024

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