



Crl.R.C. No. 153 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2025

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.R.C. No. 153 of 2025

Selvaganapathi

..Petitioner

Vs.

State by
Inspector of Police,
Tiruvalam Police Station,
Vellore District.
Crime No. 345 of 2024

..Respondent

Prayer: Criminal Revision case filed under Section 438 r/w 442 BNS Act to set aside the order dated 03.01.2025 passed in Crl.M.P. No. 3403 of 2024 in Crime No. 345/2024 by the learned Judicial Magistrate, Katpadi, Vellore District and direct to release the vehicle, JCB bearing Registration No. AP-21 AY 9213 owned by the petitioner.



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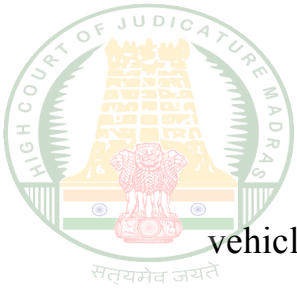
For Petitioner :: Mr.D. Thirumoorthy
For Respondent :: Mr.S. Udayakumar,
Govt. Advocate (Crl.Side)

ORDER

The revision challenges the dismissal of the petitioner's application for return of the vehicle namely, JCB bearing Registration No.AP-21 AY 9213.

2. The allegation against the petitioner is that he has used the vehicle bearing Regn.No.AP-21 AY 9213 for transportation of river sand and thus committed the offence under Sections 303(2) and 326 (a) of BNS Act,2023 and 21(1) of Mines and Minerals, (Development and Regulation) Act, 1957.

3. During the course of investigation, the said vehicle was seized by the respondent on 05.11.2024. The petitioner sought return of property, which was dismissed by the trial Court on the ground that the



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vehicle was involved in illegal sand theft ;that in the event of releasing the vehicle,it will be used for committing the same offence once again; that it will not be produced during trial and that since the investigation is pending, the vehicle cannot be returned.

4. The learned counsel for the petitioner would submit that the vehicle is kept idle at the police station; that it is subject to the vagaries of weather; that 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 comply with any stringent condition that this Court may impose; and hence, prayed for return of the vehicle.

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



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6. Considering the submissions made on either side and since admittedly, the petitioner is the owner of the vehicle 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.

7. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 03.01.2025 passed by the learned Judicial Magistrate, Katpadi, Vellore in C.M.P.No.3403 of 2024 in Crime No.345 of 2024 is set aside. In view of the same, the respondent is directed to return the vehicle JCB bearing Registration No. AP-21 AY 9213 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)



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with two sureties for a likesum to the satisfaction of the
learned Judicial Magistrate, Katpadi, Vellore;

(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, Vellore, 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.

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

28.01.2025

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SUNDER MOHAN,J.

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To

1. The Judicial Magistrate, Katpadi, Vellore.
2. Inspector of Police,
Tiruvalam Police Station,
Vellore District.
3. The Public Prosecutor, High Court, Madras.

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