



CRL OP(MD)No.11561 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :15.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL OP(MD)No.11561 of 2025

A.Karuppaiya

...Petitioner

Vs

**The State Represented by
the Inspector of Police,
Thuvankuruchi Police Station,
Tiruchirappalli District.**

...Respondent

PRAYER: Criminal Original Petition filed under Section 528 of BNSS, to modify the condition Nos.1 and 2 passed in CrI.R.C.No.32 f 2024 by the Principal District and Sessions Court, Tiruchirappalli, dated 20.11.2024 that 1 the petitioner shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakh only) in Crime Number, 2.The petitioner shall execute a bond for a sum of rs.2,00,000/- with two sureties each for a likesum to the satisfaction of the Judicial Magistrate, Manapparai.

For Petitioner : Mr.J.Vishnu

**For Respondent : Mr.A.S.Abul Kalaam Azad,
Government Advocate (Crl Side)**



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ORDER

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The petitioner is an accused in Crime No.29 of 2024 on the file of the Thuvrankurichi Police Station registered for the offences under Section 379 IPC and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957. The petitioner's tipper lorry bearing Registration No.TN67 BZ 2499 was seized by the respondent Police in connection with the said case. Therefore, the petitioner, who is the owner of the vehicle, had filed a petition seeking interim custody of the vehicle, in CrI.M.P.No.2934 of 2024 before the learned Judicial Magistrate, Manapparai. The learned Judicial Magistrate, by his order dated 19.06.2024, dismissed the said petition. Challenging the same, the petitioner has filed a revision petition before the learned Principal District and Sessions Judge, Tiruchirappalli. The learned Principal District and Sessions Judge, by his order dated 20.11.2024, allowed the revision petition by imposing certain conditions. Now the petitioner has filed this petition challenging the following condition Nos. (i) and (ii) as imposed by the learned Principal District and Sessions Judge, Tiruchirappalli:



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“(i)The petitioner shall deposit a sum of

Rs.2,00,000/- (Rupees two lakh only) in crime number;

(ii) The petitioner shall execute a bond for a sum of Rs.2,00,000/- with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate, Manapparai.”

2.The learned counsel for the petitioner submits that his vehicle has been seized by the respondent police in connection with Crime No.29 of 2024 and the same is lying idle in Thuvrankuriuchi Police Station and is being exposed to weather and sunlight. The petitioner is having a good case in Crime No.29 of 2024 and the same is pending investigation. The petitioner, seeking interim custody of the vehicle has filed an application before the learned Judicial Magistrate, Manapparai and the same has been rejected. Therefore, the petitioner has approached the revisional court / learned Principal District and Sessions Judge, Tiruchirappalli. The learned Sessions Judge without considering the principles laid down by the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai Vs State of Gujrat [AIR 2003 SUPREME COURT 638]*** and the other judgments of the Hon'ble Supreme Court has



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granted relief by imposing onerous conditions. The conditions imposed by the learned Sessions Judge to deposit a sum of Rs.2 lakh to the credit of the crime number is difficult for the petitioner to comply with and therefore, he is not in a position to take the vehicle, despite relief being granted by the learned Sessions Judge. Therefore, the learned counsel by referring to the orders of the Hon'ble Supreme Court submits that the onerous conditions imposed by the learned Sessions Judge in CrlRCNo.32 of 2024 dated 20.11.2024 needs to be set aside.

3.The learned counsel for the petitioner in support of his contention has relied on the judgments of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai Vs State of Gujrat [AIR 2003 SUPREME COURT 638]*** and in ***Perichi Gounder vs. Tamil Nadu State (SLP No. 7262 of 2023 dated 19.07.2024)*** and

4.The learned Government Advocate (crl side) appearing for the respondent police submits that the petitioner has indulged in the offence under Section 379 IPC r/w the offence punishable under Section 21(1) of the Mines and Minerals (Development and Regulations) Act [in short



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MMDR Act] and therefore, the vehicle bearing Registration No.TN 67 BZ 2499, which was seized along with the mineral is liable to be confiscated. Pending confiscating proceedings, the learned Sessions Judge has granted interim custody imposing above conditions to ensure the availability of the vehicle for the confiscation proceedings. Therefore, according to the learned Government Advocate, the interim custody granted by the learned Sessions Judge in CrI RC No.32 of 2024 is subject to the confiscation proceedings and therefore, it cannot be construed as that of onerous conditions and there is no need to interfere with the said conditions.

5.This court has considered the rival submissions made and also perused the materials placed on record.

6.The petitioner is an accused in Crime No.29 of 2024 on the file of the respondent police station. This case has been registered for illegal quarrying of gravel within the limits of the respondent police station on 30.01.2024 at about 3.30pm. The respondent police registered the said case based on the complaint of the Assistant Geologist of the Geology



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and Mining Department that the petitioner through his vehicle tipper lorry bearing Registration No.TN 67 BZ 2499 has illegally transported 3 units of gravel without any permit. This was noticed on 30.01.2024. The officials of the Geology and Mining Department on surprise inspection found that this vehicle has been used for illegal transportation of mineral without any permit and therefore, the seized vehicle was produced before the respondent police along with the complaint. Based on this complaint the respondent police registered a case for the offence under Section 379 IPC and for the offence under Section 21(1) of the MMDR Act.

7. Section 21(1) of the MMDR Act has penal provisions as against the person, who contravenes the provisions of sub-section (1) or sub-section (1-A) of Section 4 of the MMDR Act. Any person, who contravenes these provisions is punishable with an imprisonment upto 5 years along with fine, which may extend to Rs.5 lakh. Section 21 (1) of the MMDR Act, is extracted as under:

“21. Penalties.-(1) Whoever contravenes the provisions of sub-section (1) or sub-section (1A) of section 4 shall be punishable with imprisonment for a



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term which may extend to five years and with fine which may extend to five lakh rupees per hectare of the area.”

8. Section 4(1) and Section 4(1-A) of the MMDR Act are extracted hereunder:

“4. Prospecting or mining operations to be under licence or lease.-(1) No person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or, as the case may be, of a mining lease, granted under this Act and the rules made thereunder.

... ..

(1A) No person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of this Act and the rules made thereunder.”

9. In this case, the petitioner's vehicle was seized by the officials of the Geology and Mining Department during their surprise inspection on 30.01.2024 along with 3 units of the gravel without any valid permit. Therefore, the authority has seized the vehicle and produced it before the



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respondent police for necessary criminal action as required under Section 379 IPC and as provided under the MMDR Act and criminal has also been registered.

10. Any vehicle or any instrument or any equipment or any tool used for illegal quarrying and transportation is liable to be confiscated as per Sub Section (4-A) of Section 21 of MMDR Act. Section 21(4) and Section 21(4-A) of the MMDR Act are also extracted as under:

“21. Penalties:

(4) Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral tool, equipment, vehicle or any other thing shall be liable to be seized by an officer or authority specially empowered in this behalf.

(4A) Any mineral, tool, equipment, vehicle or any other thing seized under sub-section (4), shall be liable to be confiscated by an order of the court competent to take cognizance of the offence under sub-section (1) and shall be disposed of in accordance with the directions of such court.”



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11.Any mineral, tool, equipment or any vehicle sized under Sub Section 4 of Section 21 of the MMDR Act is liable to be confiscated by order of the court competent to take cognizance of the offence under Sub Section 1 of Section 21 of the MMDR Act. Therefore, in this case the vehicle, which is involved in the illegal transportation of minerals, was already seized and produced before the respondent police in Crime No.29 of 2024 and the vehicle is liable to be confiscated as provided under Sub Section(4-A) of Section 21 of the MMDR Act.

12.The petitioner's main contention is that the orders of the revisional court imposing conditions on the petitioner to deposit a sum of Rs.2 lakh to the credit of the crime number is onerous and the direction to execute the bond for a sum of Rs.2 lakh is also liable to be set aside.

13.In the above cited judgments referred to by the learned counsel for the petitioner in ***Sunderbhai Ambalal's*** case cited supra, the Hon'ble Supreme Court has observed that it is of no use to keep the seized vehicle at the police station for long period and therefore, direction has been issued to the concerned courts to pass appropriate orders immediately by



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taking appropriate bond and guarantee as well as security for returning of the said vehicle, if required at any point of time. The relevant portion reads as under:

“It is of no use to keep such seized vehicle at the police stations for long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time.”

14.In the other judgment referred by the learned counsel for the petitioner in ***Perichi Gounder vs. Tamil Nadu State (SLP No. 7262 of 2023 dated 19.07.2024)***, the Hon'ble Supreme Court has held that keeping the vehicle like tipper lorry idle does not serve anybody's interest and it is resulting in damage to the stationary vehicle which is kept within the court complex and the public space is also occupied.

15.The Hon'ble Supreme Court in ***Sunderbhai Ambalal's case*** in fact issued directions to deal with the applications if any filed for interim custody without loss of time and considering that keeping the vehicle at the police station for a longer period is of no use. However, the Hon'ble



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Supreme Court in the said judgment has permitted the concerned courts to take proper bond and guarantee as well as security for returning of vehicles.

16.Though the provisions under Sub Section (4-A) of Section 21 of the MMDR Act mandate the authorities to initiate confiscation proceedings, the authorities are not taking any action by initiating the confiscation proceedings.

17.In fact in a batch of criminal revision cases filed before this court in CrI.R.C(MD)Nos.894 of 2023,etc., batch for return of vehicles involved in the offence under Section 21 of the MMDR Act, this court has verified with regard to the number of vehicles involved in the offence under Section 21 of the MMDR Act and found that only 385 vehicles have been confiscated and therefore, this court issued directions to the authorities under the MMDR Act to initiate confiscation proceedings for those vehicles, which were seized for illegal transportation of mineral, facing prosecution under Section 21(1) of the MMDR Act. It reveals that around 6354 vehicles have been seized all over the State, which involved



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in illegal transportation of minerals and facing prosecution under Section 21(1) of the MMDR Act. Out of these vehicles the authorities have initiated confiscation proceedings only as against 2218 vehicles and completed confiscation proceedings only in 385 cases.

18.This data in fact exposes, the nexus of the officials' involvement in not taking any action as contemplated under Section 21(4-A) of the MMDR Act. Section 21(4-A) of the MMDR Act mandates the authorities to confiscate, tool or instrument or vehicle involved in the commission of offence of illegal quarrying of transportation of mineral. However for the reasons best known, they have not complied with the mandates.

19.A Division Bench of this court in W.P.No.19936 of 2016, etc., batch has emphasized the need for confiscation of the vehicles. Consequently, the Government has also issued certain directions to the authorities of Revenue, Police and Forest and Geology and Mining departments to seize the vehicles and for confiscation of the same in G.O.Ms.No.170, Industries (MMC-II) Department, dated 05.08.2020.



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20.It appears that even after this government order and the order of the Division Bench, the vehicles involved in the offences are not confiscated. A specific direction has also been issued by this court in Crl.RC(MD)Nos.894 of 2023, etc., batch, by order dated 11.10.2023 reminding the mandatory provisions provided under the MMDR Act. Even then the officials have not acted upon.

21.Even in this case, the vehicle has been seized on 30.01.2024. Till date the authorities have not initiated confiscation proceedings. The vehicle is lying idle in the police station exposed to weather and sunlight. Therefore, though there is no error in the order passed by the learned Sessions Judge, this Court is inclined to modify the condition No.1 alone and the petitioner is directed to furnish a bank guarantee for a sum of Rs.2 lakh, instead of depositing Rs.2 lakh to the credit of the crime number.

22.Accordingly this criminal original petition is dismissed.

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Index : Yes / No
OGY/ DSK



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To

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- 1.The Principal District and Sessions Judge,
Tiruchirappalli.
- 2.The Inspector of Police,
Thuvarankuruchi Police Station,
Tiruchirappalli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI.J.,

OGY/ DSK

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