

In the court of Principal District and Sessions Judge, Tiruvannamalai.

Present: Selvi M.K. Jamuna, M.L.,

Principal District and Sessions Judge,
Tiruvannamalai

Tuesday, the 1st day of November 2022

Crl. M.P. No. 2862/2022
(CNR.No.TNTM010051422022)

Elumalai, aged about 68 years S/o. Subramani .. Petitioner/Owner of the Vehicle/
/vs/

State through
Sub Inspector of Police,
Kalambur P.S. Cr. No.253/2022

.. Respondent/Complainant

This petition came on 26.10.2022 for final hearing before me, in the presence of Thiru. M. Anbalagan Learned Advocate for the petitioner and Thiru.K.V.Manoharan, Learned Public Prosecutor for the State and after hearing the arguments and perused records, this court passed the following....

ORDER

The petitioner has filed this petition u/s.457 r/w 451of Cr.P.C. to grant interim custody of his **Ashok Leyland TIPPER LORRY bearing Registration No. TN 23 AB 9213** which is now in police custody.

The learned counsel for the petitioner would contend that the petitioner is the owner and he purchased **Ashok Leyland TIPPER LORRY bearing Registration No. TN 23 AB 9213** from one Durairaj S/o. Balu, 4/47 Subramani Koil Street Sathiyavijayanagaram Village, Arni Taluk, Tiruvannamalai District on 06.03.2020 and when he was taking steps for name transfer, that the respondent police by alleging that his vehicle was involved in the illegal transportation of 1.1/2 unit sand and a case was registered in concerned **Cr. No.253/2022 of Kalambur police station** and the vehicle has been seized and now is in police custody, that the petitioner has not committed any offence as alleged, that the petitioner is depending on the said vehicle for income and that he undertakes not to alienate or alter the vehicle, that the petitioner has no previous case and he will obey the conditions that may be imposed by this Court.

Notice issued to the respondents. Notices served. The learned Public Prosecutor filed objection petition and recorded.

The learned Public Prosecutor submitted that the **Ashok Leyland TIPPER LORRY bearing Registration No. TN 23 AB 9213** was involved in the illegal transportation of 1.1/2 units sand has been seized by the respondent police a case was registered concerned in Cr.

No.253/2022 of Kalambur police station, u/s. 379, 430 IPC r/w Sec.21(1) of MM Act and is in police custody, that the property is yet to be remanded before the Jurisdictional Magistrate, that the petitioner is the accused and he is the owner of **Ashok Leyland TIPPER LORRY bearing Registration No. TN 23 AB 9213**, that investigation of the case has not been completed, that if interim custody of vehicle ordered, there is more chance for doing the same offence and there is chance for alienate or encumber or alter the vehicle and that they are having serious objection to release the vehicle.

Heard both sides. Records perused. The learned counsel for the petitioner states that the petitioner is the owner of vehicle and he purchased **Ashok Leyland TIPPER LORRY bearing Registration No. TN 23 AB 9213** from one Durairaj S/o. Balu, 4/47 Subramani Koil Street Sathiyavijayanagaram Village, Arni Taluk, Tiruvannamalai District on 06.03.2020 and when he was taking steps for name transfer, the respondent police has registered a case in Cr. No.253/2022 of Kalambur Police Station u/s. 379, 430 IPC r/w Sec.21(1) of MM Act by alleging that the vehicle was involved in the illegal transportation of 1.1/2 units sand has been seized and the vehicle is in police custody, that the petitioner is depending on the said vehicle for income, he prays to interim custody and that he undertakes not to alienate or alter the vehicle till the disposal of the case. It is evident from F.I.R., the **Ashok Leyland TIPPER LORRY bearing Registration No. TN 23 AB 9213** was seized by the respondent police. On perusal of R.C. reveals that the owner of the vehicle shows as Durairaj, S/o. Balu and on perusal of Sale Receipt and T.O. Form reveals that the said Durairaj, sold the vehicle to the petitioner for Rs.3,00,000/-- on 06.03.2020. As per FIR, the date of occurrence on 17.05.2022. Hence, on the date of occurrence, the vehicle was with the petitioner. The learned Public Prosecutor has not questioned or put any valid objection with regard to ownership of vehicle. In the light of the above facts, this Court accept the petitioner's plea that the petitioner is the owner of the said vehicle at the time of alleged occurrence. Though notice was received by the respondent, he has not raised any objection. The learned Public Prosecutor stated that the case property is in respondent police station and is yet to be remanded before the Jurisdictional Magistrate. In this circumstances, it is necessary to refer the following Hon'ble Apex Court decision. In the light of the decision reported in;

(2002)(10) SCC 283
(Sundarbai Ambalal Desai /vs/State of Gujarat)

It was held that

".....it is of no use to keep seized vehicles at the police station for a long period. It is to pass appropriate order immediately by taking appropriate

bond and guarantee as well as security for return of said vehicles, if required at any point of time".

In view of the decision laid above and on considering the above facts and circumstances of the case and also the fact that if the vehicle is allowed to be kept idle by exposing the same in rain and shine, it would damage the vehicle and diminish its value. Considering the above facts and circumstances, this Court inclines to release the vehicle in question viz. **Ashok Leyland TIPPER LORRY bearing Registration No. TN 23 AB 9213** on interim custody to the petitioner by imposing stringent conditions.

In the result, this petition is allowed on condition that the respondent police is directed to handover the case property involved in this case before the Jurisdictional Magistrate within two weeks, i.e. on or before 15.11.2022 and then the learned Jurisdictional Magistrate is directed to remand the case property if in order and assign R.P.R. Number and then release the vehicle in question to the petitioner on the strict compliance of the following conditions.

1. After assigned R.P.R. Number, the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) before the District Mines and Mineral Foundation Trust, Tiruvananthapuram as non-refundable deposit within two weeks from the date of RPR Number assigned. After made payment, the petitioner is directed to produce the acknowledgement receipt and deposit all the documents pertaining to the ownership of the seized vehicle including Original R.C. Book before the **learned Judicial Magistrate, Arni.**

2. The petitioner is directed to appear before the **learned Judicial Magistrate, Arni.** and execute his own bond for a sum of Rs.3,00,000/- with two sureties for a like sum each to the satisfaction of the learned Judicial Magistrate without fail and also submit an affidavit with an undertaking to take effective steps to transfer the vehicle in his name within two months.

3. After successful compliance of 1st and 2nd condition by the petitioner, the learned Magistrate is directed to release the vehicle in question forthwith.

4. For the purpose of name transfer in R.C., on petition and undertaking, the petitioner may get back the original R.C. and original T.O. Form from the Magistrate concerned.

5. The petitioner is directed to take effective steps to transfer the name in R.C. within two months from the date of receipt of vehicle received and deposit the name transfer effected original R.C. to the learned Judicial Magistrate, Arni immediately. In case of any default, the learned Judicial Magistrate, Arni shall take appropriate action as per law.

6 The petitioner shall file an affidavit of undertaking that he shall not involve in any offence in future that may lead to the seizure of the vehicle in question.

7. The petitioner shall not alienate/encumber or alter the vehicle in question till the proceedings are completed.

8. The petitioner shall co-operate with the enquiry to be conducted by the respondent.

9. The petitioner shall produce the vehicle before the concern Magistrate as and when required.

Pronounced by me, in the open court, on this the 1st day of November 2022.

Sd/M.K.Jamuna

Principal District and Sessions Judge,
Tiruvannamalai.

Copy to

The learned Judicial Magistrate Arni

The Public Prosecutor, Tiruvannamalai.

The Inspector of Police, Kalambur P.S.

Thiru.M. Anbalagan Advocate for the petitioner.