

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 2nd day of November 2022

CrI. M.P. No. 2863/2022
(CNR.No.TNTM010051432022)

Muthu, aged about 59 years S/o. Rajigounder .. Petitioner/Accused/Owner of the Vehicle
/vs/

State through Sub-Inspector of Police,
Dusi P.S. Cr. No.56/2022

.. Respondents/Complainant

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

ORDER

The petitioner has filed this petition u/s. 457 r/w 451 Cr.P.C. praying orders to grant interim custody of his bullock cart which is now in police custody.

The learned counsel for the petitioner would contend that the petitioner is the owner of bullock cart, that the respondent police by alleging that the petitioner/Accused along with his bullock cart has involved in the illegal transportation of 1/4 unit sand and a case was registered concerned in **Dusi P.S. Cr. No.56/2022**, that the vehicle has been seized and now the cart is kept under police custody, that the petitioner is depending upon the said vehicle for income and that he undertakes not to alienate or alter the vehicle, that 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 petitioner's bullock cart was involved in the illegal transportation of 1/4 unit sand has been seized concerned in **Dusi P.S. Cr. No.56/2022 u/s. 379, 430 IPC r/w 21(1) of Mines and Minerals Act** and the bullock cart is now in police custody, that the petitioner has no previous case of similar nature, that investigation has 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 bullock cart and that they are having serious objection to release the bullock cart.

Heard both sides. Records perused. The admitted facts are that the petitioner is the owner of the said bullock cart/accused in this case and the same has been seized by the respondent Police concerned in **Cr.No.56/2022 of Dusi Police Station u/s. 379, 430 IPC, r/w 21(1) of MM Act** and now is in custody of respondent police station. The learned counsel for the petitioner submitted copy of Aadhaar Card of the petitioner for identity. At this juncture, it is necessary to refer the following 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 bullock cart is allowed to be kept idle by exposing the same in rain and shine, it would damage the same and diminish its value and become useless, this Court inclines to release the bullock cart in question 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 viz. Bullock cart 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.2,000/- (Rupees Two Thousand only) before the District Mines and Mineral Foundation Trust, Tiruvannamalai as non-refundable deposit within a week from the date of RPR Number assigned.** After made payment, the petitioner is directed to produce the acknowledgement for payment and his original Aadhaar Card to ascertain identity before the Jurisdictional Magistrate.
2. Further, the petitioner shall execute his own bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned **Judicial Magistrate, Cheyyar** without fail.
3. After successful compliance of conditions 1 and 2 by the petitioner, the learned Magistrate is directed to release the vehicle in question forthwith.

4. 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.
5. The petitioner shall not alienate/encumber or alter the vehicle in question till the proceedings are completed.
6. The petitioner shall co-operate with the enquiry to be conducted by the respondent.
7. The petitioner shall produce the vehicle before the concern Magistrate as and when required.

Pronounced by me, in the open court on this the 2nd day of November 2022.

Sd/M.K.Jamuna

**Principal District and Sessions Judge,
Tiruvannamalai.**

Copy to

The Judicial Magistrate, Cheyyar

The Public Prosecutor, Tiruvannamalai.

The Inspector of Police, Dusi P.S.

Thiru.M. Anbalagan, Advocate for the petitioner.