

**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. 2860/2022**  
**(CNR.No.TNTM010051402022)**

Suganya, aged about 22 years W/o. Saranraj .. Petitioner/Owner of the Vehicle  
/vs/

State through  
Sub Inspector of Police,  
Kannamangalam P.S. Cr. No.241/2021

.. 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 451 of Cr.P.C. to grant interim custody of her **Swaraj Tractor bearing (Engine No. DC 1024/SAP 30551 and Chasis No.MBNAU52AHLCA47802) with unnumbered tipper** which is now in police custody.

The learned counsel for the petitioner would contend that the petitioner is the owner of unregistered **Swaraj Tractor bearing (Engine No. DC 1024/SAP 30551 and Chasis No.MBNAU52AHLCA47802) with unnumbered tipper**, that the respondent police by alleging that his vehicle was involved in the illegal transportation of 1 unit sand and a case was registered in Cr.No.241/2021 of Kannamangalam Police Station, u/s 379, 430 IPC r/w 21(1) of MM Act and the vehicle has been seized and now is in police custody, that the petitioner has not involved in this case, the said vehicle under court custody, that the tractor is newly purchased one, hence, RC book not yet available to her, that she enclosed copy of delivery note for the purchase of said Sri Vasavai Tractors, SWARAJ TRACTORS, CC Road, Polur, Tiruvannamalai District that the said vehicle was owned by the petitioner and she is depending on the said vehicle for income and that she undertakes not to alienate or alter the vehicle, that the petitioner has no previous case and she will obey the conditions that may be imposed by this Court.

Notice issued to the respondents. Reply received from the learned Public Prosecutor and recorded.

The learned Public Prosecutor submitted that the petitioner is the owner of unregistered **Swaraj Tractor bearing (Engine No. DC 1024/SAP 30551 and Chasis No.MBNAU52AHLCA47802) with unnumbered tipper** was involved in the illegal transportation of 1 unit sand has been seized by the respondent police and a case was registered in Cr.No.241/2021 of Kannamangalam Police Station, u/s. 379, 430 IPC r/w 21(1) of MM Act and now is in police custody that the property is yet to be remanded before the jurisdictional Magistrate, that the petitioner is the owner of the said vehicle, 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 objection to release the vehicle.

Heard both sides. Records perused. The learned Counsel for the petitioner submitted that as per FIR, unregistered Tractor with unnumbered tipper were seized by the respondent police concerned in **Cr.No.241/2021 of Kannamangalam Police Station u/s. 379, 430 IPC r/w 21(1) of MM Act**. The learned Public Prosecutor stated that the case property is in respondent police station and is yet to be remanded before the Jurisdictional Magistrate. The petitioner purchased the **Swaraj Tractor bearing (Engine No. DC 1024/SAP 30551 and Chasis No.MBNAU52AHLCA47802)** from Sri Vasavi Tractors, SWARAJ TRACTORS, CC Road, Polur, Tiruvannamalai District, and used for her agricultural purpose, after the respondent police alleged that her vehicle was involved in the case in Cr.No.241/2021 of Kannamangalam Police Station seized and the vehicle is in police custody.

On perusal of FIR, it was stated that unregistered tractor with unnumbered tipper was involved in the illegal transportation of 1 unit sand and the same was seized and they have not mentioned Engine Number and Chasis Number of the Tractor. At the same time, in order to prove ownership of the vehicle, the petitioner submitted copy of GST Invoice dated 16.05.2020 (33AIXPD1791N120) and also delivery note, and Aadhar card. On perusal of the said document, it reveals that the name of the petitioner is found place in the delivery challan as buyer and **Swaraj Tractor bearing (Engine No. DC 1024/SAP 30551 and Chasis No.MBNAU52AHLCA47802)** was delivered to the petitioner on 16.05.2020 from Sri Vasavi Tractors, CC Road, Polur. It is pertinent to note that the petitioner not produced any evidence to show that she is owner of the unnumbered tipper which was involved in this case. Hence, this court decided that the ownership of unnumbered tipper is not proved by the petitioner and hence, she is not entitled to get interim custody of unnumbered tipper. Further, as per FIR, the date of occurrence on 17.05.2021, the petitioner took the vehicle delivery on 16.05.2020. Hence this Court satisfied with the ownership of the Tractor alone. 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 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 facts and circumstances of the case and in the light of the Hon'ble Apex Court decision and on perusal of records submitted by the petitioner, this Court inclines to grant interim custody of Tractor alone after verification.

**In the result**, this petition is partly 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 and the petition **in respect of unnumbered tipper is dismissed.**

- 1. After assigned R.P.R. Number, the petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) before the District Mines and Mineral Foundation Trust, Tiruvannamalai as non-refundable deposit within two weeks.** After made payment, the petitioner is directed to produce the acknowledgment receipt and deposit all the documents pertaining to the ownership of vehicle in question 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.1,00,000/- with two sureties for a like sum each to the satisfaction of the learned Judicial Magistrate without fail.**
- 3. After successful compliance of the above said conditions by the petitioner, the learned Magistrate is directed to release the vehicle in question i.e. unregistered Swaraj Tractor bearing (Engine No. DC 1024/SAP 30551 and Chasis No.MBNAU52AHLCA47802) alone forthwith.**
- 4. Further, after receipt of the vehicle, the petitioner is directed to register the unregistered tractor before the concerned Authority properly and deposit the original RC Book along with Insurance particulars before the Judicial Magistrate Arni within a period of one month from**

the date of receipt of the vehicle received, failing which the learned Magistrate is directed to initiate appropriate action to recover the vehicle.

5. 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.
6. The petitioner shall not alienate/encumber or alter the vehicle in question till the proceedings are completed.
7. The petitioner shall co-operate with the enquiry to be conducted by the respondent.
8. 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, Kannamangalam P.S.  
Thiru.M. Anbalagan Advocate for the petitioner.