

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

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

Principal District and Sessions Judge,

Tiruvannamalai

Monday, the 31st day of October 2022

Crl. M.P. No. 2859/2022

(CNR.No.TNTM010051392022)

Saravanan, S/o. Muthu

.. Petitioner/Owner of the Vehicle

/vs/

1. The Tahsildar, Taluk Office, Chetpet.

2. The Inspector of Police,

Chetpet Police Station in Cr.No.358/2022

.. Respondents/Complainants

This petition came on 26.10.2022 for final hearing before me, Thiru. D.Manimaran 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 & 451 of Cr.P.C. to grant interim custody of his **BHARAT BENZ 3128C BSIV Lorry bearing registration No. TN 22 DJ 3171** which is in custody of Chetpet Police Station.

The learned counsel for the petitioner would contend that the petitioner is the owner of his **BHARAT BENZ 3128C BSIV Lorry bearing registration No. TN 22 DJ 3171**. The 1st respondent Tahsildar, Taluk Office, Vembakkam by alleging that the petitioner's vehicle involved in the illegal transportation of stones and the vehicle has been seized by the 1st respondent and the same was handed over to the 2nd respondent police for 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 **BHARAT BENZ 3128C BSIV Lorry bearing registration No. TN 22 DJ 3171** the vehicle was seized for illegal transportation of sand by the 1st Respondent Tahsildar, Vembakkam and the same was handed over to the 2nd respondent police for custody, 2nd respondent has registered a case concerned in Cr. No.358/2022 of Dusi police station, u/s. 379 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 owner of **BHARAT BENZ 3128C BSIV Lorry bearing registration No. TN 22 DJ 3171** that the petitioner has no previous case, 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 **BHARAT BENZ 3128C BSIV Lorry bearing registration No. TN 22 DJ 3171**. The 1st respondent Tahsildar, Vembakkam by alleging that the petitioner's vehicle involved in the illegal transportation of stones and the vehicle has been seized by the 1st respondent and the same was handed over to the 2nd respondent police for custody, 2nd respondent has registered a case concerned in **Cr. No.358/2022 of Dusi police station, u/s. 379 IPC r/w Sec.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. In order to prove the ownership of the vehicle, the petitioner submitted copy of R.C. of the vehicle in question and submitted copy of Aadhaar Card for identity. 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. **BHARAT BENZ 3128C BSIV Lorry bearing registration No. TN 22 DJ 3171** on interim custody to the petitioner by imposing stringent conditions.

In the result, this petition is allowed on condition that the 3rd 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 14.11.2022 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.1,00,000/- (Rupees One Laksh only) before the District Mines and Mineral Foundation Trust, Tiruvananthamalai as non-refundable deposit within two weeks from the date of RPR**

Number assigned. After making payment, the petitioner is directed to produce the acknowledgment receipt and deposit all the documents pertaining to the ownership of the vehicle in question including the original R.C. Book before the Jurisdictional Magistrate forthwith.

2. Further, the petitioner shall execute his own bond for a sum of Rs.3,00,000/- with two sureties each for a like sum to the satisfaction of the learned Jurisdictional Magistrate without fail.

3. After successful compliance of conditions 1 to 3 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 31st day of October 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. D.Manimaran Advocate for the petitioner.