

IN THE COURT OF THE JUDICIAL MAGISTRATE No. I, METTUR

Present: N.Gopalakrishnan, B.Sc, B.L., Judicial Magistrate No. I, Mettur.

Saturday, 7th day of March, 2026

CrI.M.P. No. 6 of 2026

R.Chinnaponnu W/o.Rajendran **Petitioner / Owner of the property**

//Vs//

The Inspector of Police, Nangavalli P.S. in **Cr. No.198/2025,**

u/s 303(2), 62 of BNS and S. 21(1) MMDR Act.

.... **Respondent / Complainant**

This petition under section **497 of BNS** return of property to the petitioner, filed on **03.01.2026** and came upon today **07.03.2026**, and Advocate **K.S. Selvaraja** appeared for the Petitioner and learned Assistant Public Prosecutor **Mr.T.Suresh** appeared for the respondent, which are stood over for the consideration till today, this Court delivers the following,

ORDER

- i. The petitioner has filed the present petition under **Section 497 of the Bharatiya Nagarik Suraksha Sanhita, 2023**, seeking interim custody of an **JCB 3D EXCLAVATOR LOADER, bearing Registration No. TN.28.AH.0691**, which has been produced before this Court in **C.P. No. 187 of 2025.**

- ii. **The reply filed by the respondent in brief:** It is submitted by the respondent that the investigation is pending. The accused having previous **CrI.M.P. No.6 of 2025**

similar cases If this vehicle is handed over to the petitioner, he may try to use the vehicle for the same kind of offence. This property has to be marked as prosecution side material object during the trial. Hence, the prosecution strongly opposes this petition.

iii. Both sides were heard. Records perused.

iv. **The contention of the Petitioner:** It is submitted by the learned counsel for the petitioner that the property belongs to the petitioner and was seized by the police in connection with this case. The petitioner further submits that, if the property remains in the custody of the Court or the police, it will remain idle and may rust, thereby causing loss and hardship to the petitioner. It is further submitted that the said property is necessary for the petitioner's day-to-day use and livelihood. The petitioner has also expressed willingness to furnish sufficient sureties and to comply with any conditions that may be imposed by this Court.

v. **It is specifically submitted by the learned counsel for the petitioner that the vehicle is not all used in the commission of the offence and kept idle without any valid reasons. The police seized the vehicle which are kept idle without any minerals loaded on it.**

vi. It is also submitted by the learned Assistant Public Prosecutor that if the property is handed over to the petitioner, she will not produce the same at

the time of trial.

vii. This Court finds it pertinent to rely on the principles established by the Honourable Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283**. The apex court observed that no purposeful object is served by retaining seized vehicles at police stations for extended periods. Consequently, the Magistrate is mandated to pass immediate orders for the release of such vehicles upon the execution of an appropriate bond, guarantee, and sufficient security to ensure their production when required. Furthermore, as a prerequisite for the delivery of possession, clear photographs of the vehicle must be captured and a comprehensive panchnama must be prepared.

viii. In light of the above-mentioned judgment of the Honourable Supreme Court, it is crystal clear that there is no absolute bar on handing over the seized vehicle to an owner, provided that such release is made under appropriate circumstances and subject to suitable conditions imposed by the Court.

ix. It is further seen that if the property remains unused for a long period, it is likely to become defective, and its value would considerably diminish. It is also pertinent to note that the said property is essential for the petitioner's day-to-day use and for earning his livelihood.

- x. Upon reviewing the contentions from both sides, this court finds it highly pertinent to cite the judgment of our Honourable Madras High Court in the case of **Annadurai v. State, Crl.O.P.Nos.646, 661, 668, 681 & 1146 of 2024**. In this case, our Honorable High Court has comprehensively summarized the legal position regarding the disposal of vehicles under the Mines Minerals Act. In view of the judgment of the Honourable Madras High Court in **Annadurai v. State, Crl.O.P.Nos.646, 661, 668, 681 & 1146 of 2024**, it is crystal clear that this Court is empowered to entertain and decide an application for the interim release of a vehicle seized under the provisions of the **Mines and Minerals (Development and Regulation) Act, 1957**, until confiscation proceedings are actually initiated by the competent authority.
- xi. This court is of the further opinion that this Court has also taken into consideration the following relevant facts, which are just and necessary in the proper decision in this petition:
- a) In the present case, it is evident that no complaint has been filed by the police or by the authorised officer **under Section 223(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957**. In the absence of such a complaint, this Court is not competent to take cognizance of the offence under Section 21(1) of the Act.

Consequently, the power of confiscation contemplated under Section 21(4-A) cannot be invoked, as the said provision operates only when the Court is competent to take cognizance under Section 21(1) on a valid complaint by the authorised officer.

b) The case of the prosecution is that the police officer spotted the vehicles while the accused persons were allegedly making preparations to illicitly excavate prohibited red sand (செட்டமண்). It is pertinent to note that, as per the allegations, the incident involves a stage of preparation rather than the actual commission of the offence. This Court observes that the seizure was effected based on the perceived intent to commit the theft of minerals before any extraction had commenced.

c) As per the case of the police, the aforesaid allegations amounts only to an attempt to commit theft of prohibited red sand. However, the Mines and Minerals (Development and Regulation) Act, 1957, particularly Section 21(1), does not create an offence for an attempt to commit illegal mining or theft of minerals; it applies only when there is actual extraction, removal, or transportation of minerals without lawful authority. Therefore, in the absence of such acts, there are no valid prima facie grounds to attract Section 21(1) of the Act, though the alleged act, if proved, may fall under the general penal provisions of

the IPC.

- d) Therefore, confiscation proceedings cannot be initiated in a police-registered case, since the police are not empowered to register an FIR or file a final report for offences under the MMDR Act.
- e) Consequently, the question of confiscation doesn't arise at present, and such a confiscation cannot be a bar to handing over the vehicle on interim custody, to the rightful owner on suitable conditions.

In view of the foregoing reasons, and taking into consideration the facts and circumstances of the case, this Court is of the considered view that it would be just and proper to hand over the **A JCB 3D EXCLAVATOR LOADER, bearing Registration No. TN.28.AH.0691** to the petitioner under interim custody, subject to the following conditions:

- i. The petitioner shall execute a bond for a sum of **₹1,00,000/- (Rupees One Lakh only)** with two sureties for the like sum, to the satisfaction of this Court, for the interim release and production of the **A JCB 3D EXCLAVATOR LOADER, bearing Registration No. TN.28.AH.0691.**
- ii. The petitioner and the sureties shall produce valid proof of identity issued by a government authority. The sureties shall further produce

documentary proof, such as a property tax receipt, bank statement, property document, solvency certificate, or any other statutorily recognised document, evidencing their sufficient means to stand as sureties for the said amount.

iii. The petitioner shall cause colour photographs of the aforesaid properties to be taken from all possible angles. Two printed copies of the said photographs shall be produced before this Court, along with a digital copy recorded in a CD / DVD / Pen Drive. One set of the printed photographs shall be retained with the Court records, and the other set shall be kept in the case diary maintained by the respondent.

iv. The Head Clerk of this Court is directed to physically verify the said properties with due care and caution and to compare them with the photographs produced. After verification, the Head Clerk shall make an endorsement on the reverse side of each photograph stating —

“Compared and verified with the original; true photograph of the property produced,”

which shall be signed by the Head Clerk and countersigned by the petitioner.

v. The Head Clerk shall further prepare a **Panchanama** containing all identifying and specific details of the properties in **Judicial Form No.82**

as prescribed under the **Criminal Rules of Practice, 2019**, and shall annex the same with the certified photographs.

vi. The petitioner shall surrender the original Registration Certificates of the aforesaid vehicles, which shall be retained in the custody of this Court until further orders.

vii. The petitioner shall not sell, pledge, transfer, or otherwise encumber the said properties in any manner whatsoever.

viii. The petitioner shall not alter the structure, form, or colour of the properties and shall maintain them in good working condition.

ix. The petitioner shall produce the properties before this Court as and when required.

x. The petitioner shall not use the said properties for any unlawful or illegal purpose.

xi. Accordingly, this petition is allowed.

Directly dictated to Steno Typist, typed by him in the Computer and corrected by me and pronounced by me in open court on 7th **day of March 2026**.

Judicial Magistrate No.I, Mettur.