

IN THE COURT OF THE JUDICIAL MAGISTRATE, GUDIYATHAM.

Present: R.Saranya, BA.,LLB(Hons).,LLM.,
Judicial Magistrate, Gudiyatham.

On Monday, the 12th day of January 2026

CMP.No. 9189 /2025

Arulkumar, S/o. Yovan.
No.2, Udayar Street,
Sathgar, Gudiyatham,
Vellore District.

.... Petitioner/Vehicle Owner

//Vs//

State by Inspector of Police,
Pernambut P.S.,
Crime No.347/2022,
CP.No.09/2026.

.... Respondent/ Complainant

This petition coming on this day before me in the presence of Mr.S.Sathishkumar., Counsel for Petitioner and the learned APP II for prosecution and upon hearing the arguments on both sides this court passed the following:

ORDER

This petition is filed by the petitioner under section 497 of and of BNSS seeking return the case property on interim custody to the petitioner and thus render justice.

BRIEF AVERMENTS IN THE PETITION

This petition was filed by the petitioner stating that he is the owner of the Tractor Bearing with the Registration No.TN32AZ0096, Engine No.EBSOW817, Chassis No. EBSOW817 and that on

20.08.2022 above said vehicle was taking River Sand and the respondent Pernambut police had registered a case in Crime No.347/2022 under section 379, 430 IPC r/w 21(1) MM Act and has seized the vehicle and kept in police station due to which there is possibility of vehicle being damaged due to Sunlight and seasonal reasons and that said vehicle is required for his work and so prays to return the Vehicle undertaking that he will not Produce the vehicle as and when directed by this court. Thus, prayed to allow this petition.

PROSECUTION'S STAND

The prosecution upon notice filed its reply submitting that if the property is returned there are possibilities of involving the vehicle in similar offence and so strongly opposed to allow this petition. The Learned APP also contended that if the vehicle is returned to the petitioner, he may indulge the vehicle in similar activities and may subject the vehicle to distortion. And further stated that he may not produce the property before the court and she may sell the vehicle. Therefore, strongly opposed this petition.

POINT FOR CONSIDERATION:

1. Whether The Property Seized Is To Be Returned To The Petitioner?

On perusal of the averments in the petition, it shows that the petitioner is the owner of the Tractor Bearing with the Registration No.TN32AZ0096, Engine No.EBSOW817, Chassis No. EBSOW817 and which was seized from the accused by respondent Pernambut police in Crime No.347/2022 under section 379, 430 IPC r/w 21(1) MM Act and seized the vehicle.

At this juncture, this court considers that detaining the property either in the court premises or in the Police Station premises would not fetch any use. And the reasons stated by the petitioner regarding the potential damage to the vehicles while kept in open air and sunlight are reasonable. On enquiry, the petitioner produced the original RC Book and it was found that this petitioner is the original owner. However, Considering the gravity of the offence, which involves the exploitation of natural resources, this court feels that this petition should be considered with stringent conditions to prevent similar offences in the future.

C) Therefore, in accordance with the observations of the Hon'ble Madras High Court in the judgments reported in **2024 LiveLaw (Mad) 48** in “*Annadurai vs The Inspector of Police*” wherein it has been clearly stated that in paragraph 30.

“(e) Ex-consequenti, the Court for the purposes of Section 21(4-A) is the Court of the Magistrate since it is that Court which is empowered to take cognizance of the offences under Section 21(1). Hence, an application for release of vehicle will lie only before the jurisdictional Magistrate”

and “*Ramar Vs State in Crl.R.C(MD). No. 470 of 2023*” dated.11.10.2023 this petition is allowed Ordering interim custody of Tractor Bearing with the Registration No.TN32AZ0096, Engine No.EBSOW817, Chassis No. EBSOW817 with the following conditions,

i) The petitioner is directed to deposit a non-refundable amount of Rs.2,000/- to District Mines and Minerals Foundation Trust by way

of demand draft payable to the credit of the District Mines and Minerals Foundation Trust, Vellore.

ii) Upon producing the receipt of acknowledgement of deposit of such non-refundable deposit before the competent authority concerned, the petitioner shall execute a bond to sum of Rs.1,00,000/- to the value of the vehicle along with two surety for a like sum.

iii) The Original R.C.book of the vehicle shall be produced before this court, if the RC book are required for official purpose, such as the renewal of the permit or obtaining as River Sand certificate, the petitioner is permitted to file a petition seeking interim custody of the RC book for that purpose, Subsequently, the petitioner shall resubmit the RC book before this court, and it shall be kept by this court until further orders or the disposal of the case.

iv) The petitioner shall file an affidavit with a specific undertaking that he shall not be involved in any illegal mining or any other offence, and the vehicles shall not be used in illegal mining or any other offence and that she shall not alienate the vehicle and make an undertaking to produce the property before this court on the first working day of every month before this court and for confiscation proceedings if any initiated by the appropriate authority and also at the time of giving evidence.

v) The petitioner shall produce the attested photo of the said properties along with C.D. and undertaking affidavit along with sec 63(B) certificate of B.S.A.

Typed by me in my laptop, corrected and pronounced by me in
open court on this 12th day of January 2026.

//True Copy//

Sd/-R.Saranya.
Judicial Magistrate
Gudiyatham.