

**IN THE COURT OF DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE,
THIRUVENNAINALLUR.**

Present: THIRU. R. SENTHILKUMAR, B.A., B.L.,
DISTRICT MUNSIF -CUM-JUDICIAL MAGISTRATE,
THIRUVENNAINALLUR.

Monday this is the 1st day of June 2026

C.M.P. No.290/2026
(CNR.No.TNVP-34-000553-2026)

Sabapathi Age-22, S/o.Moorthy,
V.O.C. Street, Anthili Village,
Kandhachipuram Taluk,
Villupuram District.

...Petitioner/owner.

/Vs/

The Station House Officer,
Arakandanallur Police Station,
Cr.No:180/2026.

...Respondent/Complainant.

This Petition coming on this day for final hearing before me in the presence of Thiru.M.P.Ramachandiran, M.A.,B.L., Advocate for Petitioner/Owner and Tr.I.Farook Shah, B.A.,L.L.M., Assistant Public Prosecutor Grade-I for the Respondent/ Complainant and upon hearing the arguments on the both sides and perusing the material records this court delivered the following.

ORDER

1. This Petition filed U/Sec.497, 503 of BNSS praying to order for return of one Bullock Cart and two bulls as interim custody.

2. This Petition filed by the Petitioner stated that on the morning of May 15, 2026, the police authorities seized two of his bulls and an iron bullock cart alleging that they had been used by the respondent to extract sand from the river and detained them at the police station. Subsequently, a case was registered under the aforementioned Crime Number; although the names of the accused were not specified in the FIR, his bulls and cart were recorded therein as having been seized in connection with the case. While the bulls remained tethered at the police station for the entire day, he received information through police personnel that without following any prescribed procedures, without obtaining a veterinary fitness

certificate from a qualified veterinarian and without providing any intimation to the Honorable Court the animals had simply been sent away to a Goshala (cow shelter).

3. Under these circumstances, and given that we had not been provided with any information regarding the details of the case, we lodged a complaint at the office of the Honorable Superintendent of Police. In response, we were informed that our cart-pulling oxen had been sent to a Goshala (cow shelter) in Kanchipuram, which is managed by Mr. Srinivasan of the 'Rakesh Commando Force.' Subsequently, in accordance with due legal procedure, a petition seeking anticipatory bail was filed in the Honorable High Court of Madras in Crl.O.P.No.13497/2026 was allowed and anticipatory bail was granted. During the proceedings, the Honorable Justice issued a verbal directive to Mr. Subramani, Special Sub-Inspector representing the aforementioned police station, instructing him to convey to the Police Inspector that the bulls be handed over to the petitioners. However, when his counsel approached the Police Inspector regarding this matter, the Inspector stated that a verbal directive would not be accepted; he informed us that the bulls would be released only if a formal release order issued by a Judicial Magistrate was produced.

4. In this context, for over the past 10 days, the bulls belonging to him have been illegally detained by the Police Inspector in a cowshed. These bulls bear absolutely no connection to the legal case at hand. Due to a lack of proper fodder and care over the last 10 days, his bulls valued at approximately 1.5 lakh rupees are now, in a condition where they are fit only to be sold for slaughter. Consequently, this situation has inflicted severe financial loss upon me and my family, placing us in a precarious position where we stand to lose our very livelihood. My family and I sustain our lives by relying entirely on these bulls and on agriculture; without his bulls, my family has no source of income, and I am unable to carry out any farming activities. Hence, this Petition is filed for return of the Bullock Cart as interim custody.

5. The Respondent filed objection stated that the respondent/police filed reply stated that investigation is pending in respect of who is the owner of seized bulls and bullock cart and involvement of other accused and seized bullock cart to be numbered as case property in this case and seized sand handed over to the revenue department and accused is continuously doing this offence and filed document that the bulls handed over to Ko-salai namely Gauraksha Commando Force Bharat, Kanchipuram. If the case property is return to petitioner, he doing similar offence and he will not co-operate the investigation.

6. Now, the point that arises for consideration is whether the Petition filed by Petitioner to return the the Bullock Cart and bulls as interim custody under Section U/Sec.497, 503 of BNSS., is maintainable or not ?

Point:

7. This Court has heard the submission of both sides and perused the records.

8. On the perusal of records would show that the respondent police along with the team proceed to rounds and on secret information, proceed to S. Kollur Village, near Murugan Koil to seen that loading river sand in four bullock carts and try to escaped from that place and registered in Cr.No.180/2026, U/s.303(2), 326(a) of BNS. The petitioner stated that his Bullock Carts and two bulls are used to agricultural work and earned to money for family expenditure. The petition was seeking production of his vehicle and bulls as case property and its release to him under interim custody. It is showed that the Sabapathy, S/o. Murthy is the owner of the bullock cart and two bulls. The Respondent filed objection stated that if the case property is return to petitioner, he doing similar offence and he will not co-operate the investigation.

As per decision cited in Crl.O.P.Nos.646,668,661,681& 1146 of 2024 dated 29.01.2024 of Hon'ble High Court of Madras held in para 30 that held that "In view of the aforesaid discussion, the legal position can be summarized as under.

(a) The power to initiate confiscation proceedings and issue direction for release/ disposal of the property U/Sec. 21(4-A) of the MMDR Act, 1957 lies with the Court and not with any other authority.

(b) Section 21(4-A) expressly states that the Court competent to initiate confiscation proceedings and issue direction for the disposal of the seized material is the Court competent to take cognizance of the offense under Section 21(1) of the Act.

(c) The special Court constituted under Section 30-B of the MMDR Act, 1957 is invested with the powers of a Court of Sessions under Section 30-C. Consequently, the Special Court being a Court of Session cannot directly take cognizance of an offense under the Act in view of the bar contained in Section 193 Cr.P.C and in the light of the law laid down in paragraph 38 of the decision in *Pradeep S. Wodeyar v. State of Karnataka*, (2021) 19 SCC 62;

As a consequence, complaint under Section 21 of MMDR Act, 1957 can be filed only before the jurisdictional Magistrate empowered to take cognizance of the offense (*State (NCT of Delhi) v. Sanjay*, (2014) 9 SCC 772, *Kanwar Pal Singh v. State of U.P.*, (2020) 14 SCC 331 and *Jayant v. State of M.P.*, (2021) 2 SCC 670), and not before the Special Court;

(d) Ex-Consequenti, the Court for the purpose of Section 21(4-A) is the Court of the Magistrate since it is the 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;

(e) The decisions of this Court in *Muthu v District Collector* (2018 SCC Online Md 13985), the order passed in review dated 09.09.2019, the decision of the Full Bench in *S. Kumar v District Collector* (2023) 3 MLJ (Cri) 536 and that of the learned single judge *Ramar v The State* (Cr.R.C MD 470 of 2023) dated 11.10.2023, to the extent that it is inconsistent with the decision of the Supreme Court in *State (NCT of Delhi) v. Sanjay*, (2014) 9 SCC 772, *Kanwar Pal Singh v. State of U.P.*, (2020) 14 SCC 331 and *Jayant v. State of M.P.* (2021) 2 SCC 670 and paragraph 38 of the decision in *Pradeep S. Wodeyar v. State of Karnataka*, (2021) 19 SCC 62, as discussed above, do not lay down the correct law."

9. In the above said decision is applicable to this case and, as per para 30 (e) stated that an application is an application for release of vehicle will lie only before the jurisdictional Magistrate. Hence the application in respect of release of vehicle is maintainable before the jurisdictional Magistrate.

10. In this case, the respondent /police filed reply stated that investigation is pending in respect of who is the owner of seized bulls and bullock cart and involvement of other accused and seized bullock cart to be numbered as case property in this case and seized sand handed over to the revenue department and accused is continuously doing this offence and filed document that the bulls handed over to Ko-salai namely Gauraksha Commando Force Bharat, Kanchipuram. The counsel for petitioner filed memo stated that the petitioner is ready to bear the necessary expenses incurred to the bulls for food and maintenance and other expenses and same is taken into consideration. The petitioner side submitted decision cited by the Hon'ble High Court in W.P.Nos.35181 to 35183 of 2016, dated 04.10.2016 regarding release the bulls and bullock cart and held in “ The view taken in the earlier writ petitions appears to be reasonable. However, that does not mean that the respondent cannot proceed in accordance with law for the illicit transport of river sand. Thus, that power should be preserved while issuing any direction for return of the bulls and the bullock carts.” and “ Accordingly, there will be a direction to the first respondent to return the bulls and the bullock carts seized from the petitioners on 16.09.2016, leaving it open to the first respondent or the Revenue Divisional Officer or the District Collector, as the case may be, to initiate appropriate action in accordance with Tamil Nadu Minor Minerals Concessional Rules, 1959 and other notifications. The first respondent is also entitled to proceed with the criminal case in accordance with law. The above direction shall be complied with on production of the copy of this Order before the second respondent” is also applicable in this petition for the reason that both are similar case.

11. The counsel for petitioner submitted decision cited by the Hon'ble High Court in CrI.O.P. No. 13497 of 2026, dated 22.05.2026 regarding enlarge the petitioners on bail in the event of their arrest in Cr.No.180/2026, held in “The learned Government Advocate (Criminal Side) appearing for the respondent police submitted that the petitioner excavated and transported ½ unit of river sand

in a Bullock Cart: and that the first petitioner has six previous case. Accordingly, he prayed to dismiss this Criminal Original Petition”. It is showed that the petitioners in CMP.No.287 to 290 of 2026 were transported were river sand allegedly excavated and transported by the petitioners in the Hon’ble High Court in Crl.O.P. No. 13497 of 2026, dated 22.05.2026. It is showed that petitioners are the owner of the bulls and bullock carts.

12. Under these circumstances and interest of justice, this court is allowed this Petition with subject to the following conditions:-

1. It is directed to the respondent police, to produce the bullock cart as case property into the court and assign C.P number and then return to the petitioner as interim custody.
2. It is directed that the in-charge of Ko-salai namely Gauraksha Commando Force Bharat, Kanchipuram to deliver the bulls to the petitioner, after pay the necessary expenses incurred by Ko-salai in respect of the bulls for food and maintenance and other expanses and directed to file the receipt for payment to this Court within a week from the date of delivery of bulls.
3. The Petitioner shall take photograph of the said bullock cart and two bullocks along with petitioner at his own cost in the presence of Head clerk and produce the same along with CD and detailed panchanama shall be prepared.
4. The Petitioner shall execute a surety for sum of Rs.1,50,000/- along with another one surety for the same amount in respect of bulls and bullock cart to the satisfaction of this Court.
5. The Petitioner shall cause production of the Bullock Cart and two bullocks, as and when ordered by this Court.
6. The Petitioner shall not to sell or alter or dispose the said Bullock Cart and two bullocks.

This point is answered accordingly.

13. **In this result**, this Petition is allowed with the above conditions.

This order was dictated by me in the open court to the Steno-Typist and typed by her and corrected and pronounced by me in the open court on 1st day of June 2026.

District Munsif-Cum-Judicial Magistrate,
Thiruvannainallur.

Copy to

The Sub Inspector of Police,
Arakandanallur Police Station.