

**In the Court of the Principal District Judge, Madurai.**

**Present : Tmt.A. Nazeema Banu, B.A., L.L.M.,**

**Principal District Judge, Madurai.**

**Thursday, this the 13<sup>th</sup> day of August -2020.**

**Crl.M.P.No.3635/2020**

M.Murugan, S/o.Muthaiah

... Petitioner / Owner of the Property.

**Vs**

State through the Inspector of Police,

Peraiyur P.S. Cr.No.1353/2020.

... Respondent/Complainant.

This petition taken up today for hearing at request through e.mail/ e.petition and after hearing the arguments of Thiru.S.Muthukumar, Advocate for the petitioner and of Thiru.M. Tamil Chelvan, the Public Prosecutor for the state over conference call, this court passed the following.

**Order**

1. The petition filed u/s. 457 and 451 of Cr.p.c.

2. Heard both sides.

3. This Court has carefully perused the affidavit, which is filed in support of this petition, and the rival submissions put forth by either parties. The case of the petitioner is that a case has been registered against the accused/petitioner under section 379 of IPC r/w. 4(1)(1-A), 21(1) of MMDR Act of Peraiyur P.S. Cr.No. 1353/2020 and the Petitioner is the owner of the **Tractor bearing registration No.TN 76 Z 9587 along with unnumbered trailer** which was seized by the respondent police and the same was kept in the police station in the open space for long time. The vehicle was seized on 1.6.2020. If the vehicle is not returned to the petitioner, it will get damage due to the sun light and rain and hence he filed petition u/s. 457 and 451 of Cr.p.c.

4. The learned Public Prosecutor while advancing his argument has submitted that sand was transported in the petitioner's tractor with trailer , without any permit and the vehicle was seized by the respondent police station. He has raised objection for returning of property, since the petitioner's vehicle was used in the transportation of sand.

5. A perusal of F.I.R., clearly shows that the accused has committed the theft of sand in a tractor with trailer. It is stated on the petitioner's side, that the tractor and trailer are used for the agriculture purpose and if the vehicles are not returned to the petitioner, his day to day living would be seriously affected, and if the vehicle is not returned to the petitioner, it will get damage due to the sun light and

rain. The vehicle is in police custody for more than 2 months. Investigation is almost over. There is no use to keep the lorry in custody for a long time. Therefore, this Court has no hesitation to return the tractor and trailer to the petitioner on interim custody.

6. In the result, the petition is allowed with following conditions:-

(i) The respondent police is directed to unload the sand and hand over it to the RDO concerned and remand the **Tractor bearing registration No.TN 76 Z 9587 along with unnumbered trailer.**

(ii) The **Tractor bearing registration No.TN 76 Z 9587 along with unnumbered trailer** is ordered to be returned to the petitioner, on interim custody on production of the original RC book and on payment of cash surety of **Rs.5,000/-** and on his executing a own bond of **Rs.20,000/-** to the satisfaction of Judicial Magistrate, Peraiyur , after obtaining the photo shot of the vehicle;

(iii) The petitioner is directed to give an undertaking to produce the vehicle before the court as and when required by the Court; and

(iv) the petitioner should not dispose of the same and should not effect any material changes without the written permission of the court concerned.

(v) After obtaining the bond from the petitioner, the Judicial Magistrate, Peraiyur is directed to give suitable instruction to the SHO concerned, to hand over the vehicle to the petitioner.

Pronounced by me in Camp Court on the 13<sup>th</sup> day of August -2020.

Sd/- A.Nazeema Banu

Principal District Judge, Madurai

**Copy to**

1. The Judicial Magistrate concerned
2. The Inspector of Police, Peraiyur P.S.
3. The Petitioner through his counsel.