

In the Court of the Principal District Judge, Madurai.

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

Principal District Judge, Madurai.

Friday, this the 21st day of August -2020.

CrI.M.P.No.3767/2020

M.Vinothkumar, S/o.Muniyandi

... Petitioner / Owner of the Property.

Vs

State through the Inspector of Police,

Silaiman P.S. Cr.No.388/2020

... Respondent/Complainant.

This petition taken up today for hearing at request through e.mail/ e.petition and after hearing the arguments of Thiru.A.Murugan, 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 & 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 petitioner is not an accused in this case. The case of the petitioner is that a case has been registered against the accused under section 188, 271, 379 of IPC and 21 of MMDR Act & 3 of EPIDEMIC DISEASE Act of Silaiman P.S. Cr.No.388/2020 and the petitioner is the owner of the **JCB bearing Registration No.TN 59 BK 8474** which was seized by the respondent police and the same was kept in the police station in the open space for long time. The JCB was seized on 07.05.2020. The accused Jeyaprakash and Balu were arrested on 7.5.2020 and released on bail by the respondent police on the same date on own bond. The original registration number of the JCB is TN 59 BK 8474. But, in the F.I.R. it is wrongly mentioned as TN 59 K 8474. If the vehicle is not returned to the petitioner, it will get damage due to the sun light and rain and hence, petition filed u/s. 457 and 451 of Cr.p.c.

4. The learned Public Prosecutor has submitted that the lorry was used by the accused to commit the offence of theft of sand, if the vehicle is returned to the petitioner, he will indulge in similar kind of offence over and over again and hence he has strongly objected to return the vehicle to the owner, as the case is registered under sections 188, 271, 379 of IPC and 21 of MMDR Act & 3 of EPIDEMIC DISEASE Act.

5. A perusal of F.I.R., clearly shows that the accused has committed the theft of sand by using the JCB, and used to sale the same for commercial purpose. If the vehicle is not returned to the petitioner, it will get damage due to the sun light and rain. The JCB is in custody for more than three months. Investigation is almost over. There is no use to keep the JCB in custody for a long time. Therefore, this Court has no hesitation to return the JCB to the petitioner on interim custody.

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

(i) The respondent police is directed to remand the **JCB bearing registration No.TN 59 BK 8474**.

(ii) The **JCB bearing registration No.TN 59 BK 8474** 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.40,000/-** and on his executing a own bond of **Rs.40,000/-** to the satisfaction of **Judicial Magistrate No.2, Madurai** 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 No.2, Madurai** is directed to give suitable instruction to the SHO concerned, to hand over the vehicles to the petitioner.

Pronounced by me in Camp Court on the 21st day of August -2020.

Sd/- A.Nazeema Banu

Principal District Judge, Madurai

Copy to

1. The Judicial Magistrate No.2, Madurai
2. The Inspector of Police, Silaiman P.S.
3. The Petitioner through his counsel.