

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.3769/2020

K.Ganesan, S/o.Kannuchamy

... Petitioner / Owner of the Property.

Vs

State through the Inspector of Police,

Keelavalavu P.S. Cr.No.164/2020

... Respondent/Complainant.

This petition taken up today for hearing at request through e.mail/ e.petition and after hearing the arguments of Thiru.K.S.Rajan, 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. 21(5) of MMDR Act of Keelavalavu P.S. Cr.No.164/2020** and the Petitioner is the owner of the **Tata ace van bearing registration No. TN 59 AX 2162** 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 11.4.2020. The petitioner was arrested on 12.4.2020 and released on bail on own bond by the Inspector of Police, on the same date due to pandemic situation. 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 Tata Ace Van was used by the accused to commit the offence of theft of ½ unit of sand, without any permit and the vehicle was seized by the respondent police station. He has raised objection to return the vehicle to the owner, as the case is registered under sections 379 of IPC and 21(5) of MMDR Act.

5. A perusal of F.I.R., clearly shows that the accused has committed the theft of 1/2 unit of sand and transported in a Tata ace van. It is stated that as the owner is using the vehicle for the transportation of materials and he is earning income through the same and if the vehicle is not returned, his day to day living would be seriously affected. Further, if the vehicle is not returned to the petitioner, it will get damage due to the sun light and rain. The Tata Ace van is in custody for more than four months. Investigation is almost over. There is no use to keep the Tata Ace van in custody for a long time. Therefore, this Court has no hesitation to return the Tata Ace van 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 **Tata Ace van bearing registration No. TN 59 AX 2162**

(ii) The **Tata Ace Van bearing registration No. TN 59 AX 2162** 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.15,000/-** and on his executing a own bond of **Rs.20,000/-** to the satisfaction of Judicial Magistrate, Melur 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, Melur 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 21st day of August -2020.

Sd/- A.Nazeema Banu

Principal District Judge, Madurai

Copy to

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

