

(2021) 06 KL CK 0279

In the High Court Of Kerala

Case No : Criminal Miscellaneous Application No. 2741 Of 2021

Abdul Samad

APPELLANT

Vs

Deputy Tahsildar, Mannarkad Taluk, Mannarkad P.O. Palakkad District

RESPONDENT

Date of Decision : 18-06-2021

Acts Referred:

Code of Criminal Procedure, 1973 — Section 451

Citation : (2021) 06 KL CK 0279

Hon'ble Judges : N.Anil Kumar, J

Bench : Single Bench

Advocate : P.M.Ziraj , C.K.Suresh

Final Decision : Disposed Of

Judgement

N.Anil Kumar, J

1. The petitioner is the owner of a lorry bearing KL-52/M-9032, which has been seized by the first respondent for an allegation of the violation of rules

under the Kerala Minor Mineral (Development and Regulation) Act, 1957 on 19.02.2021. Subsequent to the seizure, the petitioner approached this

Court for the release of the vehicle by filing W.P.(C) No.5428/2021. By judgment dated 02.03.2021, this Court directed the 4th respondent to initiate

proceedings against the petitioner and it was further directed that the the petitioner would be free to move before the criminal court for the release of

the lorry in accordance with the scheme of the Code of Criminal Procedure.

2. Soon thereafter, the petitioner approached the Judicial First Class Magistrate Court, Pattambi seeking to release the vehicle on interim custody. The

learned Magistrate passed an order directing to release the vehicle on interim custody by virtue of Annexure -III order. Condition No.8 in the said

order is that the petitioner shall deposit a sum of Rs.1,00,000/- as security for the fulfillment of condition numbers 1 to 7.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor for the State.

4. A lorry owned and possessed by the petitioner herein bearing Regn No.KL-52/M-9032 has been seized by the 1st respondent alleging commission of an offence punishable under the Mines and Minerals (Development and Regulation) Act, 1957. According to the petitioner, the seizure is illegal.

Pursuant to the Annexure A-2 order, the learned Magistrate was pleased to allow the application on terms.

5. The learned Public Prosecutor, on instructions, submits that the vehicle has been involved in several other cases of the same nature which prompted the learned Magistrate to pass such an order.

6. Going by the impugned order, there is nothing on record to indicate that the vehicle which sought to be released has been involved in several other cases relating to the very same offence. Going by the terms of the order, it is clear that the petitioner is entitled to release the vehicle on interim custody in accordance with Section 451 of the Cr.P.C. However, condition No.8 is included directing the petitioner to deposit Rs.1,00,000/- as security for the fulfillment of the aforesaid conditions. Certainly, the condition itself is onerous in nature, particularly during this pandemic period. Hence, condition No.8 is substituted as follows:-

â??The vehicle is released to the petitioner on him executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties for the like sum each to the

satisfaction of the jurisdictional Magistrate concerned .â??

Consequently, Condition No.2 is deleted. No other interference is required.

In the result, the CrI.M.C. is disposed as herein above.