



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 810 OF 2025

NAVKAR GOSHALA PANJRAPOLE, DHULE
Through its Secretary,
Rajendra Walchand Chaudhari,
Age : 64 years, Occupation : Business,
R/o : House No.2646/1-3, Lane No. 5,
Near Vimalnath Pathpedhi,
Kisan Batti Chowk, Dhule

.... **Petitioner**

Versus

1 The State of Maharashtra
Through Police Inspector,
Mohadi Nagar Police Station, Dhule

2 Samadhan Anna Sonawane,
Age : 24 years, Occupation : Agriculture,
R/o Kothara Jenpur, Post : Tangada Bazar,
Tq. Bhokardan, Dist. Jalna

.... **Respondents**

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Advocate for the Petitioner : Mr. Joydeep Chatterji
APP for Respondent No. 1-State : Mr. S. M. Ganachari
Advocate for Respondent No. 2 : Mr. A. A. Shaikh

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CORAM : SACHIN S. DESHMUKH, J.

Dated : September 9, 2025

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard finally with
the consent of the parties.

2. The petition raises challenge to the judgment and order

rendered by the Additional Sessions Judge – 1, Dhule, confirming the order rendered by the Judicial Magistrate First Class, Dhule by allowing the application presented by the owner / respondent No. 2 herein seeking custody of the seized cattles.

3. On 06.04.2025, the vehicle transporting the cattles / animals was intercepted. Resultantly, on 07.04.2025, the FIR bearing Crime No. 095/2025 was registered with the Mohadi Nagar Police Station, Dhule under Sections 192 and 66 of the Motor Vehicles Act (hereinafter "MV Act" for short), Sections 11(1)(d), 11(1)(e) and 11(1)(f) of the Prevention of Cruelty to Animals Act, 1960 (hereinafter "Animals Act, 1960" for short), and Section 119 of Maharashtra Police Act. The cattles i.e. bullocks and calves were seized. Thereafter, in the wake of proviso to Section 8 of the Animals Act, 1960, the cattles were handed over to the petitioner as an interim custody. The respondent No. 2 presented an application seeking custody of the seized the cattles, submitting the cattles were purchased in an Animal Fair at Rajasthan and were being transported to his place in a vehicle for agricultural purpose. In support of the same, placed on record the purchase receipt of the cattles and Revenue Record indicating the respondent No. 2 owns agricultural land.

4. While resisting the application, the Investigating Officer as well as petitioner offered their response. The Investigating Officer and the Assistant Public Prosecutor submitted that the seized cattles were transported in merciless condition in pick-up van. It was further submitted that in the event the seized cattles are handed over, there is likelihood of repetition of the offence of same nature. It was further submitted that the respondent No. 2 has breached the Rules 46 to 57 of the Motor Vehicles Rules and Section 5 of the Maharashtra Animals Protection Act and prayed for rejection of the application.

5. The Judicial Magistrate First Class, considering the fact that the respondent No. 2 is the owner of the seized cattles, exercised the discretion by allowing the custody to be handed over to owner and in the process, directed to pay the amount spent by the petitioner for the period, the cattles were in custody of this petitioner.

6. Raising an exception to the order allowing the application presented by the respondent No. 2 granting custody of the cattles, the revision was presented before the Additional Sessions Judge – 1, Dhule. While dismissing the said revision, the learned Additional Sessions Judge has considered the fact that

seized cattles were not transported for slaughtering purpose and the issue is confined to transportation of the seized cattles. As such, the discretion exercised by the learned Judicial Magistrate First Class came to be endorsed. This petition raises challenge to the order rendered by the learned Judicial Magistrate First Class, Dhule and the order of the learned Additional Sessions Judge – 1, Dhule.

7. The learned counsel for petitioner submits that both the courts below have ignored the statement of Investigating Officer and the condition of the seized cattles while transporting the cattles. As such, the Courts below have committed an error allowing the application presented by the respondent No. 2.

8. Per contra, the learned counsel for respondent No. 2 supports the order submitting that the seized cattles are lawfully purchased for agricultural purpose. It was further submitted that there are no allegations or material or likelihood of the cattles being slaughtered and placed reliance on the decision of this Court in **Criminal Writ Petition No. 965 of 2025 (Shri. Dattaprabhau Gauseva Dham Vs. The State of Maharashtra and Ors.)**.

9. Heard the learned counsel for litigating sides. Perused

the material placed on record. It is evident that respondent No. 2 is an agriculturist having purchased the seized cattles for agricultural purpose and were eventually transported to place of residence. At this juncture, it would be appropriate to refer the judgment of the Hon'ble Apex Court in the case of **Manager, Pinjrapole Deudar and Anr. Vs. Chakram Moraji Nat and Ors. [(1998)6 SCC 520]**, wherein the Hon'ble Apex Court has considered the issue of entitlement for interim custody of the animal to be given to the owner is facing prosecution or to the *Goushala*, the following factors would be relevant :-

- (1) The nature and the gravity of the offence alleged against the owner.
- (2) Whether it is the first offence alleged or he has been found guilty of offences under the Act earlier.
- (3) If the owner is facing the first prosecution under the Act, the animal is not liable to be seized, so the owner will have a better claim for the custody of the animal during the prosecution.
- (4) The condition in which the animal was found at the time of inspection and seizure.
- (5) The possibility of the animal being against subjected to cruelty.

10. Considering the scheme of the Act, discretion which vested with the Magistrate to give the interim custody of the cattles. The material part of sub-Section (2) does not say that the

Magistrate shall send the animals to Pinjrapole, it is thus evident that expression "shall be sent" is the part of direction to be given by the Magistrate, if in the discretion of the Magistrate, decides to give interim custody to the owner, when the owner is claiming the custody of the animal, the Goushala has no preferential right. As such, the discretion exercised by the Magistrate cannot be regarded as perverse or unsustainable. Equally, the same is followed by the Hon'ble Apex Court in the case of **Shri. Chhatrapati Shivaji Gaushala Vs. State of Maharashtra and Ors. (2022) SCC Online 1402**).

11. Thus, the custody of the seized cattles given to the respondent No. 2 being owner is having preferential right does not warrant any interference in the present writ petition under Article 227 of the Constitution of India. In the shape of ownership of cattles as well as agricultural land, the learned Magistrate after due consideration of the documents and has directed to release all the cattles in favour of the owner with safeguards and the same is confirmed by the Revisional Court. As such, there is no reason for causing interference in the impugned order rendered by the Courts below. Thus, writ petition does not deserve any consideration.

12. In view of the above, writ petition is dismissed. Rule stands **discharged**. No order as to costs.

(SACHIN S. DESHMUKH, J.)

At this stage, the learned counsel for petitioner requests continuation of the interim stay to the operation and implementation to the judgment and order under challenge.

Considering the fact that the respondent No. 2 is the lawful owner and the agriculturist and the discretion exercised by the learned Magistrate is in accordance with the provisions of the Act. As such, the request for further stay to the judgment and order does not warrant any consideration. Resultantly, the same stands rejected.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi