



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1315 OF 2026

Prashant Bhaskar Wagh,
Age : 50 Years, Occu.: Business,
R/o.: Prbham, Wadibhokar Rd.,
Dhule, Tq. & Dist. : Dhule PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Secretary, Home Department,
Mantralay, Mumbai - 400032
2. The Collctor, Dhule,
Office of the District Collector,
Dhule
3. Superintendent of Police, Dhule,
Office of the Superintendent of Police
Dhule
4. The Sub-Divisional Officer, Dhule,
Office of the Sub-Divisional Officer,
Dhule
5. Additional Tahsildar, Dhule City,
Office of the Additional Tahsildar,
Dhule City, Dhule, Dist. Dhule
6. The Circle Officer, Division Devpur,
Office of the Devpur Division, Dhule,
Dist., : Dhule RESPONDENTS

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Mr. V. D. Sapkal, Senior counsel, i/b Mr. S. R. Sapkal a/w Mr. Yash A.
Jadhav, for the petitioner
Mr. R. D. Raut, APP for the Respondents-State
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**CORAM : SANDIPKUMAR C. MORE &
VAISHALI PATIL-JADHAV, JJ.**

Reserved on : 07/09/2026

Pronounced on : 08/09/2026

ORDER :

1. **Rule.** Rule made returnable forthwith. Heard finally at the admission stage, with the consent of learned Senior Counsel Mr. V. D. Sapkal for the petitioner and learned APP Mr. R. D. Raut for the respondent-State.

2. By way of this Criminal Writ Petition, the petitioner, who is the son of Bhaskar Shankar Wagh and Mangalbai Wagh, has sought the following reliefs:

“B. Issue a writ of Certiorari or any other appropriate writ, order or direction, thereby quashing and setting aside the communication / notice dated 30/08/2024 issued by respondent No.2, the notice dated 07/03/2025 issued by respondent No.6, Dhule and the communication / notice dated 16/06/2026 issued by respondent No.6 being illegal, arbitrary and without jurisdiction;

C. Issue a writ of Mandamus or any other appropriate writ, order or direction, restraining the respondents from taking possession of any of the petitioner's

movable or immovable properties, except valid judicial order;

- D. Issue a writ of Mandamus or any other appropriate writ, order or direction, thereby quashing and setting aside the order dated 25/05/2026 passed by the Sub-Divisional Officer in Appeal No.RTS/115/2025;
- E. Declare that the respondents have no authority in law to take possession of any property other than Plot No.2, admeasuring 5,000 sq. ft., situated in Survey No.49/1, Devpur, unless specifically authorised by a competent court;
- F. Issue a writ of mandamus or any other appropriate writ order or direction, thereby quashing and setting aside the government resolution dated 15/12/2023 issued by the respondent No.1;
- G. Pending the hearing and final disposal of the present petition, stay the operation, implementation and execution of the communication / notice dated 30/08/2024, the notice dated 07/03/2025, the order dated 25/05/2026 and the communication / notice dated 16/06/2026 and
- H. Interim and ad-interim relief in terms of prayer clause "E" may kindly be granted in favour fo the petitioner."

However, today, by way of *ad interim* relief, the learned Senior Counsel for the petitioner has sought stay to the execution of communication dated 16/06/2026, whereby the property mentioned

therein, owned by late mother of the petitioner, is to be taken in possession of the State Government through respondent No.6 under the orders of respondent No.2, Collector, Dhule.

3. Learned Senior Counsel has sought such urgent relief mainly on the ground that the concerned Special Judge, in Special Case No. 5 of 1991, had ordered attachment of only two properties, namely, one revolver and another being Plot No. 2, admeasuring 5,000 square feet, out of Survey No. 49/1, situated at Devpur, Dhule. He pointed out that even in Miscellaneous Application No.13 of 1991, the concerned Special Judge, by passing an order below Exhibit-1, had ordered attachment of only the aforesaid two properties and that the property which is sought to be taken into possession under the impugned notice dated 16/06/2026 is not included in the said order.

4. As against this, the learned APP strongly opposed the submissions advanced by the learned Senior Counsel for the petitioner seeking interim relief. He pointed out that the petitioner has not annexed the entire record and has suppressed material documents. He pointed out that the Home Department, Mantralaya, Maharashtra, had already passed an order dated 18/02/1991, mentioning the schedule of the properties of the accused in the aforesaid Special Case which were

to be attached. He pointed out that in the said schedule, as per Statement-C, the disputed property in the present matter had already been attached; however, its possession has not been taken till date, as it was a residential house. He further pointed out that the concerned Sessions Judge, in the aforesaid case, has specifically referred to the date of the order, i.e. 25/02/1991, passed below Exhibit-1 in Miscellaneous Application No.13 of 1991. Thus, according to him, the schedule appended to the aforesaid miscellaneous application clearly indicated the property which is sought to be taken into possession in the present matter and therefore, no interim relief can be granted at this juncture.

5. Heard the rival submissions. Also perused the documents on record. It is extremely important to note that in the judgment dated 10/03/2006 passed in Special Case No. 5 of 1991, the concerned Additional Sessions Judge, Dhule, has specifically mentioned in the operative part that the offence was proved against the accused persons therein and therefore, the properties attached by the order dated 25/02/1991 passed by the District Court below Exhibit-1 in Miscellaneous Application No. 13 of 1991, along with other landed property, i.e. Plot No. 2, admeasuring 5,000 square feet, out of Survey No. 41/1, situated at Devpur, Dhule, be forfeited.

6. It appears that the learned Senior Counsel is contending that the order passed below Exhibit-1 in Miscellaneous Application No. 13 of 1991 does not make any reference to the attachment of the property of which possession is sought under the impugned notice. However, the specific date of the order, i.e. 25/02/1991, is mentioned in the order passed by the learned Additional Sessions Judge, Dhule.

7. Admittedly, on going through the record in the aforesaid Miscellaneous Application No. 13 of 1991, no order was passed below Exhibit-1 on 25/02/1991. However, the record further shows that, in fact, the said order was passed on an interim application, Exhibit-3, filed by the State of Maharashtra seeking attachment and under the said order, all the properties mentioned in the schedule annexed thereto were attached by way of an interim measure. Moreover, Exhibit-1, i.e. Miscellaneous Application No. 13 of 1991, was in fact disposed of by the concerned Judge on 10/03/2006 in view of the final judgment and order passed by the learned Additional Sessions Judge, Dhule, in Special Case No. 5 of 1991, wherein reference has been made to the order dated 25/02/1991.

8. Today, the learned APP placed on record the order dated 18/02/1991 passed by the Deputy Secretary, Home Department,

Government of Maharashtra, mentioning all the properties in the schedule. It is extremely important to note that the petitioner ought to have placed on record the said schedule which was appended to Miscellaneous Application No. 13 of 1991. Though the said schedule has not been filed by the petitioner, but the learned Senior Counsel fairly accepted that the schedule appended to the order dated 18/02/1991 is the same schedule, wherein “Prabham” bungalow, which is under dispute in the present matter, is mentioned as standing in the name of the mother of the petitioner, Mangalabai Wagh. The learned Senior Counsel for the petitioner is unable to show any other order dated 25/02/1991 passed below Exhibit-1 in Miscellaneous Application No. 13 of 1991. Thus, it can be inferred that the only order dated 25/02/1991 was the order passed below Exhibit-3 in Miscellaneous Application No. 13 of 1991.

9. Though the learned Additional Sessions Judge, Dhule, in the operative part of the order passed in Special Case No. 5 of 1991, referred to the order below Exhibit-1 in Miscellaneous Application No. 13 of 1991, but he has specifically mentioned the date of the said order as 25/02/1991. Thus, there being only one such order dated 25/02/1991 regarding attachment of the properties of the accused as per the schedule, it has to be inferred that the learned Additional

Sessions Judge had, in fact, intended to refer to the order of attachment of the properties mentioned in the schedule appended to Miscellaneous Application No. 13 of 1991.

10. Even on going through the discussion in the judgment of the learned Additional Sessions Judge, Dhule, it is clearly evident that the landed property mentioned in the order dated 28/03/1995 was an additional property under attachment, apart from the properties already attached as per the schedule referred to above. Thus, it appears that the petitioner is seeking to persuade the Court merely by referring to the exhibit number of Miscellaneous Application No. 13 of 1991. As such, considering all these aspects, we are not inclined to grant any interim relief in favour of the petitioner at this juncture.

11. It is to be noted that the petitioner has also sought other reliefs, as mentioned in the petition, by challenging certain earlier communications and notices. However, after the judgment passed by the learned Additional Sessions Judge, Dhule, in Special Case No. 5 of 1991, the earlier communications and notices are already dealt with and thereafter, the properties came to be attached as per the schedule annexed to Miscellaneous Application No.13 of 1991, with specific reference to the order dated 25/02/1991 passed below Exhibit-3 in the

said application. Therefore, considering all these aspects, even the other prayers cannot be granted in favour of the petitioner.

12. Accordingly, the main petition itself is dismissed at the admission stage. The petition stands disposed of.

13. Rule is discharged.

[VAISHALI PATIL-JADHAV]
JUDGE

[SANDIPKUMAR C. MORE]
JUDGE