

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 583 OF 2015

Shivaji s/o. Nidhanji Vidhya **....Petitioner.**

Versus

The State of Maharashtra **....Respondent.**

Mr. R.M. Giri, Advocate for petitioner.

Mr. S.A. Ambad, APP for State.

CORAM : T.V. NALAWADE, J.

DATED : 8th July, 2015.

ORDER :

1. The petition is filed to challenge the order made by the learned Judicial Magistrate, First Class, Kalamnuri in C.R. No. 4/2015 registered in Kalamnuri Police Station and also the judgment and order of Criminal Revision No. 5/2015 which was pending in the Court of Additional Sessions Judge, Hingoli. The application filed under section 457 of Criminal Procedure Code for interim custody of the trolley/trailer is rejected by the J.M.F.C. by observing that there is no R.T.O. record in respect of trailer. It was not registered with R.T.O. Office. This trailer was found attached with the tractor which was owned by the petitioner. The tractor is released by the J.M.F.C. in favour of the petitioner.

2. The learned counsel for petitioner submitted that the trailer was manufactured by M.S. Sangmeshwar Engineering Works and accordingly, 'F' form was prepared. He submitted that trade certificate was issued, but unfortunately the owner did not get it registered in R.T.O. Office. The learned counsel submitted that the owner undertakes to get it registered with R.T.O. Office within one month after release of trailer. He submitted that unless and until he is able to show the trailer to R.T.O. Office, there will not be registration of the trailer.

3. In view of the aforesaid circumstances and as it is not disputed that there is no other claimant in respect of the trailer, this Court holds that interim custody needs to be given to the petitioner.

4. In the result, the petition is allowed. The order made by the learned J.M.F.C. and decision of the learned Additional Sessions Judge are hereby set aside. Application filed under section 457 of Cr.P.C. by the petitioner is allowed. The custody of the trailer is to be given to the present petitioner subject to condition of giving of bank guarantee of Rs. 2,50,000/- (Rupees two lakh fifty thousand) of the Nationalized Bank by the petitioner. After taking the custody of the trailer, within one

month the petitioner is to get it registered with R.T.O. Office and then he is to produce the registration certificate in the Court and also before police. If that is not done, there ill be liberty to State to seize the trailer for aforesaid offence.

5. With these observations, the petition is disposed of.

[T.V. NALAWADE, J.]

ssc/