

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 332 OF 2015

Imran Zuber Ahamad Choudhari

... Petitioner.

V/s.

The State of Maharashtra,
through the Sr. Inspector of Police, Crime
Branch, Navi Mumbai Police Commissioner,
Navi Mumbai

... Respondents.

Mr. P. A. Pol, Advocate i/by Pol Legal Juris for the Petitioner.
Mrs. G. P. Mulekar, APP for the State.

**CORAM : M.L.TAHALIYANI,J.
DATE : 14th JULY, 2015**

P.C. :

1 Heard. Admit. By consent of the parties, heard finally.

2 This writ petition impugns the order passed by the learned Magistrate, rejecting the prayer of the petitioner to return the motor Tanker No.MH-04-EY-5686. The said tanker has been seized by the police in connection with an offence punishable under section 407 of the Indian Penal Code. The tanker was being used for transporting oil. The police had an information that the tanker had concealed compartments and

that the owner of tanker had been committing misappropriation of the oil which goes into the concealed compartments while filling of the tanker. The tanker was intercepted and during the course of the investigation it was cut. It is found that the tanker had concealed compartments. The oil that goes into the concealed compartments cannot be unloaded alongwith oil contained in the main container/compartment.

3 Learned counsel Mr. Pol for the petitioner submits that the Tanker will become junk if it is not returned to the petitioner. In this regard, it may be noted here that the tanker is a very valuable piece of evidence, which may be required during the course of the trial to establish that there was concealed compartment. If the tanker is returned to the petitioner in this condition, it will be of no use. Repairing of tanker will result in destruction of evidence of crime. In these circumstances, it is just impossible to give the Tanker to the petitioner. Apart from this, it has come on record that the petitioner is not a registered owner of the Tanker. In this situation, it is not possible to pass any order in favour of the petitioner. The petition deserves to be dismissed.

4 Writ Petition is accordingly dismissed.

(JUDGE)