

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

WRIT PETITION NO. 3830 OF 2016

Motabhau Anaji Sonawane	.. Petitioner
Versus	
The State of Maharashtra	.. Respondent

Mr. Rajesh S. Jadhav, Advocate for the Petitioner.
Mr. N.B. Patil, A.P.P. for the Respondent - State.

CORAM : PRAKASH D. NAIK, J.

DATED : 09 AUGUST, 2017.

P.C. :-

1 The petitioner has challenged the order dated 27.10.2015 passed by the J.M.F.C. Satana and order dated 05.07.2016 passed by the Additional Sessions Judge-1, Malegaon. The petitioner had preferred an application under Section 457 of Cr.P.C. for return of property i.e. tractor and trolley.

2 It is submitted that the petitioner is the registered owner of the aforesaid vehicle and it was in possession of the petitioner. It is submitted that the tractor was registered with concerned department and he relied upon the certified copy of RCC book, which is annexed to this application.

It is submitted that the Courts have not considered the documents relied upon by the petitioner. The application was rejected on the ground that the petitioner may misuse the said property i.e. tractor and the trolley, if it is released to him. It is submitted that the petitioner is the lawful owner of the said tractor which is registered in his name in the R.T.O. Office. The petitioner was not impleaded as an accused in the case in which the tractor was seized. The alleged offence was committed by the son of the present petitioner.

3 The application preferred by the petitioner was opposed by the prosecution before the Courts below. The accused involved in the crime has allegedly tried to run over the public officials who tried to apprehend him at the time of commission of offence and, therefore, an offence punishable under Section 307 of I.P.C. is registered against the son of the petitioner. The trial Court and the Sessions Court had rejected the application preferred by the petitioner. Learned A.P.P. submitted that the accused involved in the crime had used the tractor for committing a serious crime. The apprehension expressed by the prosecution before the trial Court and the Sessions Court was reiterated by learned A.P.P.

4 I have perused the documents which are annexed to this Petition. The tractor and the trolley were seized on 25.05.2015 in connection with the C.R. No.I-135 of 2015. It is true that serious offence is registered against the accused who was involved in the crime. The petitioner however, is the father of the accused. He is lawful owner of the tractor and the trolley which is fortified by the documents annexed in the application. The Courts had rejected the application of the petitioner and one of the reason is that, the tractor is not registered. However, R.C. Book shows that it is registered. The purchase receipt of the trolley is also annexed to this application. Considering the fact that the petitioner is the owner of the tractor and trolley and no purpose would be served by keeping the said articles in the custody of the police, the same can be released to the petitioner on certain terms and conditions.

ORDER

- i) Criminal Writ Petition No.3830 of 2016 is allowed.
- ii) The order passed by the J.M.F.C. dated 27.10.2015 and the order passed by the Sessions Court dated 05.07.2016 are set aside.

- iii) The Property viz. tractor and trolley which is seized in connection with C.R. No.I-135 of 2015 may be returned to the petitioner on executing the appropriate bond before the trial court.
- iv) The petitioner shall file an undertaking before the trial Court that he would use the said articles only for the agricultural purpose.
- v) Petitioner shall not create third party interest and the property will be produced as and when directed by the trial Court.
- vi) The Writ Petition is disposed off.

(PRAKASH D. NAIK, J.)