

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

CRIMINAL APPLICATION NO. 693 OF 2018

Raju Bhimrao Walekar ... Applicant

V/s.

The State of Maharashtra ... Respondent

**WITH
CRIMINAL APPLICATION NO. 694 OF 2018**

Devba Tukaram Shendge ... Applicant

V/s.

The State of Maharashtra ... Respondent

**WITH
CRIMINAL APPLICATION NO. 695 OF 2018**

Dhanaji Dnyandev Kale ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Sachin Deokar for the Applicants.
Mr. Suraj Hulke, APP for the Respondent/State.

**CORAM : MRS. MRIDULA BHATKAR, J.
DATE : 9th OCTOBER, 2018**

P.C.:

. These three applications are moved under Section 457 of the Cr.P.C. for the return of the seized property in C.R. No. 45 of 2018 registered with Natepute

Police Station, Taluka Malshiraj, District Solapur, therein the accused is prosecuted under Section 379 read with 34 of the Indian Penal Code.

2 Learned Counsel for the Applicants/Accused has submitted that the Revision Petitions of the Applicants/Accused for the return of these vehicles are dismissed by the learned Sessions Judge by order dated 17.04.2018 thereby confirming the order of Judicial Magistrate First Class, Malshiraj of rejecting the applications for returning of vehicles. Learned Counsel for the Applicants submits that Judicial Magistrate First Class and learned Sessions Judge have rejected these applications on the ground that the vehicles were initially seized by Talathi and then, they were taken in custody by Tahsildar and therefore, it is of Revenue Authority's custody of the vehicles.

3 Learned Prosecutor submits to the orders of this Court and prays that if the vehicles are released, a bond of sufficient amount is to be taken against each vehicle.

4 Perused the orders of learned Magistrate and learned Sessions Judge. It appears from record that these vehicles were seized by Talathi on the night intervening 12 and 13 of February 2018 when the Applicants/accused were involved in the illegal sand excavation and have committed theft of sand. Though these vehicles were seized by Talathi while taking action under the Land Revenue Code and subsequently, they were handed over to Tahsildar. Finally, these vehicles on 14.02.2018 are taken in custody by Police Station under the

panchnama.

5 Learned Counsel for Applicants submits that all three vehicles are lying in the police station. It is submitted by the learned Counsel for the applicants that Applicants are farmers and they required these vehicles for their agriculture work and for their business. They are also ready to undertake that they shall not dispose all these vehicles. It is further to be noted that police have registered this offence as CR No. 45 of 2018 at Natepute Police Station under Section 379 read with 34 of Indian Penal Code.

6 In view of this fact, these properties appear to be properties seized in the C.R. No. 45/2018 and these vehicles are in custody of police station. Therefore, I am inclined to allow these applications with following order.

i) J.C.B. No. MH-42-A-9069, Tractor No. MH-45-F-3160 and Tipper No. MH-26-AD-0887 are hereby released on following conditions.

a) The owner of JCB and Tractor shall execute the bond of Rs.10,00,000/- (Rs. Ten Lakhs only) each against these two vehicles and the owner of Tipper/Applicant shall execute the bond of Rs.5,00,000/- (Rs. Five Lakhs only) against this vehicle.

b) All three Applicants/accused shall give undertaking that they shall not sell, transfer these vehicles to any other person and shall not dispose of these vehicles in any other manner especially without permission of this Court.

c) In case of any damage, accident or theft in respect of these vehicles

shall communicate to the Court.

d) The Applicants/accused shall not thereafter indulge with any criminal activity especially like theft of sand or any other excavation with these vehicles.

e) Breach of any of these conditions will amount to seizure of these vehicles again.

7 All Criminal Applications are disposed of accordingly.

(MRIDULA BHATKAR, J.)