

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

WRIT PETITION NO. 11238 OF 2019

Sayyad Wasim Sayyad Dilawar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Nanabhau R. Thorat, Advocate for the Petitioner.
Shri K. B. Jadhavar, A.G.P. for Respondent Nos. 1 to 5.

**CORAM : S. V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 16TH OCTOBER, 2019.

FINAL ORDER :

. The petitioner has sought directions against respondent Nos. 4 and 5 to release the vehicle i. e. J.C.B. bearing registration No. MH-22/N-4872. It is the contention of the petitioner that the Commissioner had allowed the appeal filed by Nisar Shaikh. The Divisional Commissioner directed respondent Nos. 4 and 5 to release the vehicle of Nisar Shaikh on furnishing bond. Nisar Shaikh approached the authorities by furnishing bond as directed by the Divisional Commissioner, but the respondent authorities have not released the vehicle.

2. The learned Assistant Government Pleader for respondents points out that, subsequently review was filed by the Sub Divisional Officer against the judgment of the Commissioner. The review filed by the present respondent No. 3 has been

allowed by the Commissioner and the order dated 29.06.2019 directing release of the vehicle/JCB has been set aside.

3. It is the second time the JCB of the petitioner has been seized by the talathi on 13.06.2018.

4. Earlier same vehicle was involved in illegal excavation of mines and minerals. At the time of release of vehicle the petitioner had given a bond in sum of Rs. 12,00,000/-.

5. It appears that, the petitioner is a habitual offender. Earlier also for the same illegal and unauthorized act, JCB of the petitioner was seized. On execution of bond by the petitioner vehicle was released. Even criminal case was filed against the petitioner. The said bond appears to be executed on 29.12.2017 and within six months again petitioner has engaged in same unauthorized activities.

6. The petitioner has filed R.C.C. No. 52 of 2018 before the Judicial Magistrate First Class, Gangakhed for release of the JCB. The JCB was released under order of the J. M. F. C. Gangakhed on petitioner's executing bond of Rs. 12,00,000/-. Now that bond has been violated. The petitioner has again engaged himself in such illegal acts.

7. In case the petitioner seeks his vehicle to be released, the petitioner is liable to pay amount of bond.

8. It appears that, for the present act penalty of Rs. 7,50,000/- is imposed as valuation of the vehicle.

9. We would restrict the present matter to the extent of release of vehicle. As far fine/penalty on the vehicle is concerned, the petitioner may avail remedy of appeal.

10. In the light of the above, we pass following order.

11. The petitioner shall deposit an amount of Rs. 12,00,000/- (Rs. Twelve Lacs only) that is the amount of the bond violated by the petitioner. The petitioner shall in addition deposit Rs. 2,50,000/- (Rs. Two Lacs Fifty Thousands only) that is part amount of the penalty imposed upon the petitioner. Same would be subject to decision in appeal, if, filed by the petitioner. In case petitioner does not file appeal within reasonable time, then the respondents are entitled to recover the amount, so also take steps against the vehicle. Upon deposit of amount of Rs. 12,00,000/- and Rs. 2,50,000/-, the respondents may release the vehicle i. e. J.C.B. bearing registration No. MH-22/N-4872 in favour of the petitioner after verifying the ownership and documents and also execution of bond.

12. In view of the above, the writ petition is disposed of. No costs.

[ANIL S. KILOR, J.]
bsb/Oct. 19

[S. V. GANGAPURWALA, J.]