

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.2232 of 2019**

Nikhil Namdev Dhanwade	Petitioner
versus	
The State of Maharashtra	Respondent

Mr. Anvil S. Kalekar, advocate for the petitioner.
Ms. Sangeeta D. Shinde, APP for the State.

**CORAM : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.**

DATE : 3rd MAY, 2019.

P. C. :

Heard learned counsel and learned APP appearing for the respective parties.

2. The petition is filed seeking direction to the respondent to comply with the order dated 28th March, 2019, passed by learned JMFC, Pandharpur, in criminal miscellaneous application No.124 of 2019. Further directions are also sought to the respondent to deliver the subject vehicle to the petitioner.

3. The subject vehicle belonging to the petitioner was seized by Gramin Police Station, Taluka – Pandharpur in crime No.37/2019. The

petitioner thereafter preferred an application under Section 457 of the Cr.PC. before learned JMFC, Pandharpur, for return of the subject vehicle. On 28th March, 2019, learned JMFC, Pandharpur, passed the following order :

1. The seized vehicle the tata tipper vehicle bearing registration No. MH-13/AX-4552, chassis No.MAT449019F2E07525 and engine no.B591803251E63440755 seized in crime No.37/2019 of Gramin police station, Taluka-Pandharpur be given to applicant on executing indemnity bond for Rs.10,00,000/- (Ten Laks only) on following conditions, applicant shall execute a indemnity bond stating that;

- a) The applicant shall not alienate, transfer or change the nature of the above mentioned vehicle till disposal of the case.
- b) He must produce the vehicle as and when required by any police station or Court.
- c) The applicant should not make use of the vehicle for any commission of crime of similar nature.

2. The PSO, Gramin Police Station is hereby directed to take the coloured photographs of vehicle and prepare detail panchanama of releasing the vehicle in the custody of the applicant, after executing bond by the applicant.

3. Assistant Superintendent is directed to attach the bond of applicant after its execution in record and proceeding of final report in Crime No.37 of 2019.

The above order was not complied by the PSO, Gramin Police Station and, therefore, the petitioner has approached this Court for the reliefs referred hereinabove.

4. Learned APP, on instructions, stated that subsequent to the order of learned JMFC, the Tahsildar – Pandharpur, by an separate order dated 2nd April, 2019, seized the subject vehicle. Learned APP, however, does not dispute that the said vehicle is lying in the premises of Gramin Police Station. She submitted the appropriate directions will have to be issued to the Tahsildar- Pandharpur.

5. We have seen the order dated 2nd April, 2019, of Tahsildar- Pandharpur. The said order is passed on the basis of letter dated 2nd April, 2019 of the Police Inspector, Pandharpur Gramin Police Station. From this letter, it is clear that the Police Inspector, Pandharpur Gramin Police Station wrote a letter to the Tahsildar- Pandharpur and apprised him of the order of the learned JMFC referred herein above and the Police Inspector requested the Tahsildar to take the subject vehicle in

possession. We find that the Police Inspector, Pandharpur Gramin Police Station has overreached the order of the learned JMFC. He was duty bound to comply with the order of the learned JMFC. Despite this, he has written letter to the Tahsildar-Pandarpur and requested him to seize the subject vehicle. This exercise is done by the said Police Inspector and Tahsildar after the petitioner executed indemnity bond in pursuance of the order of the learned JMFC referred above. In our opinion, the action on the part of Police Inspector of Pandharpur Gramin Police Station and Tahsildar – Pandharpur is highly objectionable.

6. Learned APP submitted that the petitioner was found excavating sand, and therefore, he is liable to pay penalty and unless the penalty is paid, the subject vehicle cannot be released. We do not agree with the submission of the learned APP. If the petitioner is liable to pay the penalty, the revenue authorities can recover the same as arrears of land revenue after following appropriate procedure under Maharashtra Land Revenue Code, 1966. However, the subject vehicle cannot be detained especially when already there is an order of release by the competent authority viz. JMFC, Pandharpur.

7. In the above circumstances, we dispose of the matter by passing the following order :-

1. The Tahsildar, Pandharpur and PSO, Gramin Police Station Pandarpur are directed to deliver possession of subject vehicle viz. Tata Tiper bearing registration No. MH-13-AX-4552, to the petitioner forthwith.

2. The release would be subject to the conditions already imposed by learned JMFC, Pandharpur.

The writ petition stands disposed of.

8. It is expressly made clear that this will not preclude the revenue authorities to take action against the petitioner under Maharashtra Land Revenue Code, 1966.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]