

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

95 WRIT PETITION NO. 2641 OF 2020

**MAHESH POPATLAL GUNDECHA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Kharosekar A. B.
AGP for Respondents : Mr. S. G. Karlekar

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**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 27th FEBRUARY, 2020

PER COURT:

1. The petitioner seeks release of vehicle. The vehicle was seized by the police authorities. The F.I.R. is also lodged. The directions are issued by the Judicial Magistrate, First Class, Parner to release the vehicle. The revenue authorities are not releasing the vehicle, instead are claiming fine and penalty.

2. We have heard the learned A.G.P. also.

3. As far as the amount of fine and penalty is concerned, the petitioner may assail the same before the appellate authority.

4. We are entertaining the petition only to the extent of releasing of the vehicle after the order is passed by the JMFC. The JMFC has directed release of the vehicle on following conditions-

" **ORDER**

1. Application is allowed.
2. The Officer incharge of Parner police station is directed to release ZX- 120 Hydraulic Backhoe Poklan Machine of Tata Hitachi Company, invoice No. 240863846, machine No. OISI-053547, Sr. No. 120Z-0006 in Crime No. I-918/2019 for the offence punishable under Section 379 of the I.P.C. & Section 48 (7) of the Maharashtra Land Revenue Code, 1966 of Parner Police Station in interim custody of the applicant forthwith within contemplation of sub Section (8)(2) of Section 48 of the Code and also subject to condition of filing an undertaking stating therein that seized vehicle shall not be used for unauthorized extraction, removal, collection, replacement, picking up or disposal of mine and minerals or transportation of the same.
3. Before granting custody, Investigating Officer shall prepare panchnama and shall take photographs of the said vehicle.
4. The expenses for taking photographs shall be paid by the applicant.
5. This order of release of vehicle on supurtnama shall be without prejudice to the power of revenue authorities vide section 48 of Maharashtra Land Revenue Code.
6. The Investigating Officer is directed to affix copy of Supurtnama along with charge sheet."

5. Considering the above, we pass the following order.

6. The revenue authorities shall release the vehicle upon the petitioner complying all the terms and conditions of the order passed by the Judicial Magistrate, First Class, Parner dated 06.01.2020. In addition, the petitioner shall also deposit with the revenue authorities an amount of Rs.3,50,000/- (Rs. Three Lacs Fifty Thousand only). The petitioner shall produce the copy of the receipt showing deposit of the amount of Rs.3,50,000/- (Rs. Three Lacs Fifty Thousand only) before release of the vehicle. The authority shall verify ownership of the petitioner and genuineness of the documents in addition to the conditions imposed by the learned Judicial Magistrate, First Class, Parner.

7. The deposit of amount of Rs.3,50,000/- (Rs. Three Lacs Fifty Thousand only) is without prejudice to the rights of the parties and subject to the decision that may be taken by the authorities in appeal that may be filed by the petitioner.

8. If the petitioner does not file appeal within a period of thirty (30) day's, then the respondents are entitled to recover the amount and repossess the vehicle.

9. Writ Petition is accordingly disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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