

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

128 WRIT PETITION NO. 7550 OF 2020

**GANPAT @ RAJU ASARAM AVHAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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**Advocate for Petitioner: Mr. S. S. Tope h/f. Mr.
Vaibhav U. Pawar**

AGP for Respondents: Mr. A. R. Kale

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

DATE: 07th DECEMBER, 2020

PER COURT:

1. Heard Mr. Tope, learned Counsel for the petitioner and Mr. Kale, learned A.G.P. for respondents.

2. The contention of the petitioner is that the police officer has seized the vehicle without F.I.R. The vehicle has been seized on the ground that the petitioner was transporting sand in violation of provisions of Section 48 of the Maharashtra Land Revenue Code, 1966.

3. The learned A.G.P., on instructions, confirms that the police authority has seized the vehicle and no F.I.R. has been lodged.

4. The police did not have the authority to seize the vehicle under the provisions of Section 47(7) and 47(8) of the Maharashtra Land Revenue Code, 1966 more particularly when F.I.R. is not lodged. In view of that the vehicle is seized by unauthorized person.

5. As far as penalty is concerned, the petitioner may avail the remedy of appeal.

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

7. The respondents shall release the vehicle seized from the petitioner as described in prayer clause "B". The respondents may confirm the ownership of the petitioner and verify the documents before release of the vehicle. The respondents may get bond executed from the petitioner. The petitioner shall deposit an amount

of Rs. 40,000/- (Rs. Fourty Thousand only). The said deposit shall be without prejudice to the rights and contentions of the parties and subject to the decision taken in the appeal that may be filed by the petitioner. If the petitioner does not file an appeal within one (01) month, the respondents would be entitled to recover the entire amount.

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

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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