

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO.532 OF 2020

Jaykumar s/o. Brijkishor Jaiswal,
Aged about 49 years, Occ. Business,
r/o. Jatharpeth, Akola, Tq. and
District Akola.

..... PETITIONER

// VERSUS //

1.The Superintendent of Police,
Akola, Tq. and District Akola.

2.State of Maharashtra,
Through its P.S.O.,
Police Station, Akot, Tq.Akot,
District Akola.

3.Nilesh @ Sambha Kailas Thorat,
Aged 35 years, Occ. Agrilst.,
r/o. Khamapure, Vikas Nagar
Akot, Tq. Akot, District Akola.

..... RESPONDENTS

Mr.Z.Z.Haq, Advocate for the petitioner.
Ms N.P.Mehta, A.P.P. for respondent nos. 1 and 2.
Ms Soumya Choube, Advocate for respondent no.3.

CORAM : SUNIL B. SHUKRE &
AVINASH G. GHAROTE, JJ.

DATE : 18.12.2020.

ORAL JUDGMENT (Per Sunil B. Shukre, J) :

1. Rule. Rule made returnable forthwith. Heard finally by consent.

2. This petition involves an issue about who will open the lock put over the godown which is attached to the liquor shop of petitioner.

3. The godown of petitioner was sealed by the Excise department during the period of lock-down which came as a sequel to break out of Covid-19 Pandemic. Liquor sale was admittedly opened on 5.5.2020 and it resulted in removal of seal of the Excise department. With

the removal of seal, however, the lock placed over the godown by respondent no.2, which was placed by police in order to further ensure that the seal of Excise department was not tampered with in any manner by the petitioner or his agents or servants, till date has not been opened up. According to respondent no.2, the key was handed over to the servant of petitioner who has been made party/respondent to this petition as a respondent no.3. Respondent no.3 denies this fact. Respondent no.3 has also filed an affidavit stating that he was never handed over key to the said lock as he had nothing to do with the petitioner, following expiry of his 'Naukarnama' on 31.3.2020, much earlier than the date on which the lock was actually placed over the godown. The lock was placed over the godown on 25.4.2020. Learned Counsel for the petitioner submits that the 'Naukarnama' was seized by respondent no.2 at the time of putting lock over the godown and therefore, respondent no.2 was well aware of snapping of master/servant relationship between the petitioner and respondent no.3 and therefore, there was no occasion or any business for the respondent no.2 to have

handed over key to the lock to respondent no.3. Whatever may be the truth, what remains as a fact is lock over the godown.

4. Now, the seal of Excise department has already been removed and respondent no.2 also does not have any objection regarding opening of the lock through key or otherwise and operation of the godown.

5. In the result, we are of the view that this petition deserves to be allowed in the interest of justice by giving permissions.

6. The petition is, therefore, allowed. The petitioner is permitted to break open the lock and operate the godown, in accordance with the conditions of license.

7. Rule in the above terms. No costs.

JUDGE

JUDGE

[jaiswal]

