

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

CRIMINAL WRIT PETITION NO.506 OF 2021

Karshanbhai S/o Jethabhai Makwana

Age – 41 years, Occ.Driver

R/o Dhoriyanes, Amardal, Tq.Ranavav,

Dist.Porbandar State Gujrat.

.. PETITIONER

VERSUS

1] The District Collector,

Osmanabad, Tq. & Dist.Osmanabad.

2] The Tahsildar

Osmanabad, Tq. & Dist.Osmanabad

3] The Police Inspector,

Osmanabad Rural Police Station,

Tq.& Dist.Osmanabad.

.. RESPONDENTS

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Adv.Mr.A.R.Borulkar for petitioner

A.P.P. Mr.S.N.Morampalle for Respondent State.

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CORAM : MANGESH S. PATIL

DATE : 22/07/2021

ORAL JUDGMENT :

Heard.

2] Rule. Rule is made returnable forthwith. With the consent of both the sides, the matter is heard finally at the stage of admission.

3] While passing the order under Section 6(A)(1) and (2) of the Essential Commodities Act, 1955, the learned Collector, Osmanabad by the impugned order has *inter alia* directed the vehicle seized to be returned to the petitioner subject to various conditions. He is now seeking some modification in these conditions.

4] After having heard both the sides for a while it transpires that the

vehicle has been directed to be returned to the petitioner on furnishing bank guarantee or solvency certificate to the tune of 50% of the price of the vehicle. By another condition he has been asked to furnish 2 solvent sureties for the remaining 50% amount.

5] The learned advocate for the petitioner submits that this condition of furnishing bank guarantee or solvency certificate to the tune of 50% would add to the delay which has already occurred in getting back the vehicle. He will have to approach the Registering Authority which is time consuming. Instead of keeping it vague the petitioner is ready to furnish a bank guarantee or solvency certificate to the tune of Rs.5 lakh which would serve the purpose as the F.I.R. mentions value of the truck to be Rs.10 lakh.

6] Similarly the learned advocate submits that since the petitioner hails from Gujrat but the surety is to be furnished in Maharashtra it has become practically difficult for him to fulfill the condition. Instead, the condition may be modified and he may be permitted to furnish one surety instead of two.

7] Taking into account the fact that the truck is seized about an year ago the request being made is in my considered view innocuous and can easily be accepted and would serve the purpose.

8] The Writ Petition is allowed. The impugned order is modified. The conditions imposed at Sr.Nos.(iii) and (iv) of para 3 of the operative order are modified as under :

[iii] The petitioner shall furnish bank guarantee or solvency certificate for an amount of Rs.5 lakh.

[iv] The petitioner shall furnish one solvent surety on a stamp paper of Rs.100/- to the tune of Rs.5 lakh.

9] With this modification, the Writ Petition is disposed of. Rule is made absolute to this extent.

(MANGESH S. PATIL, J.)