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criwp739.21

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**904 CRIMINAL WRIT PETITION NO.739 OF 2021
WITH WP/823/2021**

**NEW R R LOGISTICS, THROUGH PROPRIETOR, BALVIRSINH
SHIVNARAYANSINH SENGAR
VERSUS
THE STATE OF MAHARASHTRA**

Mr. Chaitanya C. Deshpande, Advocate for the
petitioner

Mrs. G. L. Deshpande, APP for the respondent/State

CORAM : N. R. BORKAR, J.

DATE : 29-10-2021

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. Both these petitions are filed against one and the same order dated 01-06-2021 passed by the Additional Sessions Judge, Shahada in Criminal Revision No. 6 of 2021. They are being disposed of by this common order.

2. The truck bearing registration No. MP-09-HF-8563 was intercepted while it was standing at Appa's Dhaba, Prakasha-Taloda within the jurisdiction of Shahada Police Station. The search of the said truck was taken and it was found to be carrying Tobacco related items. As the Tobacco

related items are banned in the State of Maharashtra, crime No. 303 of 2021 was registered with Shahada Police Station for the offences punishable under Section 188, 272, 273 of the Indian Penal Code and Sections 26(2)(v), 30(2)(a) of the Food Safety and Standards Act, 2006.

3. The application was moved by New R. R. Logistic, (the petitioner in writ petition No. 739 of 2021) for release of the said seized goods. The New R. R. Logistic in its application has stated that its transport services were hired by the consignor Krushna Tobacco from the State of Gujrat to deliver the seized goods to consignee Navin Trader from Madhya Pradesh. It is stated that seized items are not prohibited in both the States. Documents in support of the application were filed.

4. The learned Magistrate rejected the application by order dated 30-04-2021. Against the said order revision was filed by the New R. R. Logistic. The revisional court by order impugned allowed the application filed by the New R. R. Logistic on the condition that the New R.R. Logistic shall furnish bank guarantee in the sum of Rs.

10,00,000/- and Supurtnama of equivalent amount.

5. The New R. R. Logistic has filed the petition No. 739 of 2021 challenging the order of imposing condition of bank guarantee and the State has filed the petition No. 823 of 2021 challenging the order of revisional court releasing the goods in favour of New R. R. Logistic.

6. According to the New R. R. Logistic there is no material to show that seized goods were brought to the State of Maharashtra for sale. It is submitted that therefore, the condition of bank guarantee imposed by the revisional court is harsh.

7. On the other hand, learned APP for the respondent/State submits that there is material to show that seized goods were brought to the State of Maharashtra for sale. The learned APP for the respondent/State has also pointed out the discrepancies in tax invoice and E-way bill. It is submitted that those documents are fabricated documents. It is submitted that the revisional court therefore ought not to have released the seized goods.

8. On the last date learned counsel for the petitioner on instructions submitted that the New R.R. Logistic is not in a position to furnish the bank guarantee however, consignee Navin Traders is ready and willing to furnish the bank guarantee.

9. Considering the facts and circumstances, consignee Navin Traders is permitted to furnish the bank guarantee of the amount equivalent to the value of the goods i.e. Rs. 18,00,000/- [Rupees Eighteen Lakhs]. The order impugned is modified to that extent. Needless to mention that order of release of goods is confirmed.

10. Both the petitions are disposed of in above terms.

[N. R. BORKAR, J.]