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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

25 CRIMINAL WRIT PETITION NO.778 OF 2021

**ARUN LAXMAN GARDE AND ANR
VERSUS
THE STATE OF MAHARASHTRA**

Mr. Sahil Choudhari, Advocate h/f Mr. Deepak
Choudhari, Advocate for the petitioners
Mrs. G. L. Deshpande, APP for the respondent/State

CORAM : N. R. BORKAR, J.

DATE : 25-10-2021

P. C.

. This petition takes an exception to the order dated 07-11-2020 passed by the learned Additional Sessions Judge in Criminal Revision Application No. 24 of 2020.

2. The tractor owned by the petitioner No.1 and the trolley owned by the petitioner No.2 came to be seized in crime No.20 of 2019 registered at Jilhapeth Police Station for the offences punishable under Sections 379 read with Section 34 of the Indian Penal Code.

3. The tractor and the trolley were intercepted by the revenue authorities for carrying sand illegally. Notice was issued to the petitioners and penalty of Rs. 1,19,860/- was imposed on the petitioner No.1. It is alleged that the petitioner No.1 took away the said tractor and trolley from the premises of the Collector office, where they were kept, without paying the penalty amount.

4. The learned counsel for the petitioners submits that the revenue authorities instructed them to take back the tractor and trolley and on the instructions of revenue authorities the vehicles were taken away from the premises of the Collector Office. It is submitted that after coming to know about the registration of crime they themselves surrendered the vehicles with the police authorities. It is submitted that the vehicles in question are lying idle in the police station and if they are not released, then they would become useless and valueless. It is submitted that the petitioners are ready to pay the amount of penalty of Rs. 1,19,860/- imposed by the Tahasildar, Jalgaon and on that condition vehicles be released.

5. On the other hand learned APP supported the order passed by the learned Magistrate as well as by revisional court. It is submitted that the petitioner No.1 took away the tractor and trolley from the premises of the Collector office without paying the penalty amount. It is submitted that the courts below were, therefore, justified in rejecting the application for release of vehicles.

6. There is no dispute that petitioners are registered owners of the vehicles in question. Admittedly, the vehicles are lying idle in the police station. Considering the fact that the petitioners are willing to deposit amount of penalty of Rs. 1,19,860/-, I am inclined to release the vehicles in question on certain conditions. Hence, the following order is passed.

ORDER

- i. The petition is allowed.
- ii. The orders impugned are set aside.

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iii. The vehicles in question shall be released in favour of the petitioners on execution of bond by them of Rs. 2,00,000/- [Rupees Two Lakhs] each.

iv. The learned Magistrate shall not release the vehicles till amount of penalty of Rs. 1,19,860/- is deposited and receipt to that effect is produced.

v. The petitioners shall not transfer the vehicles in question during pendency of the trial.

vi. The petitioners will not use the vehicles for any unlawful purpose.

[N. R. BORKAR, J.]

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