

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

935 CRIMINAL WRIT PETITION NO.1701 OF 2020

**KESHAV KHAJYA PADVI
VERSUS
THE STATE OF MAHARASHTRA**

...

Mrs. Rutuja L. Jakhade, Advocate for the petitioner
Mrs. R. P. Gaur, APP for the respondent/State

CORAM : N. R. BORKAR, J.

DATE : 21-10-2021

P. C.

. This writ petition takes an exception to the order dated 02-11-2020 passed by the learned Additional Sessions Judge, Shahada, Dist. Nandurbar in Criminal Revision Petition No. 13 of 2020.

2. The petitioner herein has filed an application under Section 457 of the Code of Criminal Procedure for release of Mahindra Jeep bearing Registration No. MH-39-C-7736. The learned Magistrate rejected the said application by order dated 19-06-2020. Against the said order revision was carried. The learned Additional Sessions Judge rejected the revision by order impugned.

3. I have heard learned counsel for the petitioner and learned APP for the respondent/State.

4. Learned counsel for the petitioner submits that the vehicle in question is lying idle in the premises of the police station for more than one and half years. It is submitted that the trial is at the very initial stage. It is submitted that if the vehicle in question is not released till conclusion of trial, then it would become valueless and useless. It is submitted that considering these facts and circumstances the vehicle in question be released.

5. On the other hand learned APP submits that vehicle in question was initially seized in similar crime and it was released on condition that it will not be used for any unlawful purpose. It is submitted that in breach of the said condition the vehicle in question was again used for similar offence. It is submitted that courts below were, thus justified in rejecting the application.

6. The fact that the present petitioner is registered owner of the vehicle in question is not in dispute. The vehicle in question is lying idle at the police station for more than one and half years. The trial, I am told that it is at the stage of charge. The learned counsel for the petitioner submits that the petitioner is ready to file affidavit that vehicle in question will not be used for any unlawful purpose and in case the vehicle in question is found to be used for unlawful purpose, then it may be unconditionally confiscated to the government. Considering these facts and circumstances, I am inclined to release the vehicle in question. Hence, the following

order:

ORDER

- i. The writ petition is allowed.
- ii. The orders impugned are quashed and set aside.
- iii. The interim custody of the vehicle in question shall be given to the petitioner on his executing the bond in the sum of Rs. 5,00,000/- [Rupees Five Lakhs].
- iv. The petitioner shall file an affidavit before the trial court that in future vehicle in question will not be used for any unlawful purpose and in the event if it is found to be used for any unlawful purpose, then vehicle in question may be unconditionally confiscated to the government.
- v. The petitioner shall not transfer the vehicle in question during pendency of the trial.
- vi. The petitioner shall not dispute the identity of the vehicle in question at the time of trial and if required shall produce before the trial court.

[N. R. BORKAR, J.]