

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPLICATION NO.185 OF 2021

Vinayak Ambadas Adhatrao	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. M. V. Thorat i/b Mr. S. S. Chaudhary for the Applicant

Mr. A. D. Kamkhedkar, A.P.P for the Respondent–State

***CORAM : REVATI MOHITE DERE, J.
(THROUGH VIDEO-CONFERENCING)
MONDAY, 5th JULY 2021***

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks quashing and setting aside of clause 2(i) of the order dated 24th December 2020 passed by the learned 3rd Judicial Magistrate, First Class, Pandharpur below Exhibit 1 in Criminal Misc. Application No. 726/2020. The said clause reads as under :

“2) The vehicle bearing No. M.H.17/T.6801 is returned to the applicant subject to following conditions-

i) In case of the applicant deposits the amount of Rs. 2,00,000/- within a period of 15 days from the date of this order, the vehicle bearing registration No. M.H.17/T.6801 be release such deposit to Revenue Authority by the applicant would be without prejudice to the rights and contentions of either parties and it shall not be taken as acceptance of commission of crime by the applicant.”

3 Learned counsel for the applicant submits that there was no justification for the learned Judge to impose the condition of depositing an amount of Rs. 2,00,000/- for release of the vehicle, inasmuch as, the applicant vide clause 2(ii) was directed to furnish indemnity bond of Rs. 7,00,000/- with solvent surety of Rs. 5,000/-. He submits that the applicant is ready to comply with the said condition.

4 Learned counsel also relied on the order dated 3rd May 2019 passed by the Division Bench of this Court (Coram : Ranjit More & Smt. Bharati H. Dangre, JJ.) in Criminal Writ Petition No. 2231/2019. He submits that in the event, the petitioner is found liable to pay penalty, it is always open for the Revenue Authorities to

recover the same as arrears of land revenue, after following due procedure under the Maharashtra Land Revenue Code. He submits that the applicant is unable to deposit such a huge amount of Rs. 2,00,000/- for release of his vehicle.

5 Learned A.P.P opposes the application.

6 Perused the papers. The applicant is the owner of a vehicle bearing No. MH-17-T-6801, which was seized in connection with C.R. No. 626/2020 registered with Pandharpur City Police Station, which was registered for the alleged offences punishable under Section 379 r/w 34 of the Indian Penal Code and under Sections 4(1), 4(c)(1) and Section 21 of the Mines and Minerals Act. Admittedly, the applicant is the owner of the said vehicle and is not an accused in the aforesaid C.R. According to the prosecution, the vehicle was seized, as it was involved in the commission of theft of sand. After the vehicle was seized, the applicant filed an application in the Court of the learned Magistrate, First Class, Pandharpur and sought interim custody of his vehicle under Section 457 of the Code of Criminal Procedure. The learned Magistrate vide order dated 24th December 2020 allowed the said application and directed the return of

the vehicle to the applicant, subject to certain conditions mentioned in clause (2) of the said order. The said conditions read thus :

“2) The vehicle bearing No. M.H.17/T.6801 is returned to the applicant subject to following conditions-

i) In case of the applicant deposits the amount of Rs. 2,00,000/- within a period of 15 days from the date of this order, the vehicle bearing registration No. M.H.17/T.6801 be release such deposit to Revenue Authority by the applicant would be without prejudice to the rights and contentions of either parties and it shall not be taken as acceptance of commission of crime by the applicant.

ii) The applicant shall furnish the indemnity bond of Rs. 7,00,000/- (In words Rs. Seven Lakh Only) with solvent surety of Rs. 5,000/-.

iii) The applicant produced 4 colour photographs taken from different angles.

iv) The applicant shall keep vehicle in identified condition and shall not sale or create charge over the vehicle till conclusion of C.R. No. 626/2020 of the City Police Station, Pandharpur.

v) The applicant shall produced vehicle as and when required by Investigating Officer or Court.”

The learned Judge also directed the Investigating Officer to prepare a panchanama of the seized vehicle at the time of return of the same to the applicant. The Investigating Officer was also directed

to furnish panchanama and indemnity bond and photographs along with the charge-sheet.

7 The applicant is aggrieved only by clause 2(i) of the order dated 24th December 2020 and as such approached this Court. According to the learned counsel, the condition directing the applicant to deposit Rs. 2,00,000/- is harsh, considering that the applicant is ready to give an indemnity bond for an amount of Rs. 7,00,000/- with solvent surety of Rs. 5,000/- as directed by clause 2(ii) of the said order. He submits that this is the only vehicle that the applicant possesses and that his livelihood depends on plying of the said vehicle. He further submits that the vehicle is lying idle in the police station, leading to further deterioration of the same.

8 As noted earlier, the applicant is the owner of the vehicle and has not been arraigned as an accused in the C.R. The learned Judge has imposed sufficient conditions whilst releasing the vehicle. In the event, the applicant is liable to pay any penalty, it is always open for the Revenue Authorities to recover the penalty as arrears of land revenue after following due procedure under the Maharashtra Land Revenue Code.

9 Having regard to the aforesaid, the application is allowed and the condition imposed by the trial Court vide clause 2(i) of the order dated 24th December 2020, is quashed and set-aside.

10 Application is allowed to the aforesaid extent. The applicant to comply with the rest of the conditions imposed by the trial Court vide order dated 24th December 2020.

11 The application is disposed of on the aforesaid terms.

12 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.