

RUPALI
RAJESH
WAKODIKAR
Digitally signed
by RUPALI
RAJESH
WAKODIKAR
Date:
2021.07.30
14:44:58
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 760 OF 2021

Vinayak Ambadas Adhatrao ...Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

Mr. M.V. Thorat for the Petitioner.

Mr. S.S.Hulke, A.P.P for the Respondent No.1-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 23rd JULY, 2021
(Through Video Conferencing)

P.C. :

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal.
3. At the outset, learned Counsel for the petitioner seeks leave to amend. Leave granted. Amendment to be carried out on or before tomorrow.

4. By this petition, the petitioner has impugned clause (4) of the operative part of the order dated 28th October, 2020, passed by the 3rd Judicial Magistrate, First Class, Pandharpur below Exh.1 in Criminal Miscellaneous Application No. 598 of 2020. The said condition/clause reads as under :

(4) The Present order shall be without prejudice to the power of the Tahsildar to proceed pursuant section 48 of the Maharashtra Land Revenue Code and the Mines and Minerals Act and vehicle shall not be returned until he exhausts the power in that regard.

5. Learned Counsel for the applicant submits that the said clause was not warranted inasmuch as, the applicant vide the very same order was also directed to furnish indemnity bond of Rs.7,00,000/- with solvency of Rs.5,000/-, which condition has been complied with by the petitioner. He submits that in the event, the petitioner is found liable to pay penalty, it is always open for the Revenue Authority to recover the same as arrears of land revenue after following due procedure under the Maharashtra Land Revenue Code. He submits that the said vehicle is lying in the custody of the Police since 2020 and that the said vehicle be released forthwith. He submits that the petitioner has already complied with some conditions and is ready to comply with the other conditions imposed by the Trial Court whilst releasing the vehicle.

6. Learned APP does not dispute the fact, that in the event the petitioner is found liable to pay any penalty, it is always open for the Revenue Authorities to recover the same under the provisions of the Maharashtra Land Revenue Code.

7. Perused the papers. The applicant's vehicle i.e. truck bearing No. MH13 CU 7688 was seized by the Police in connection with C.R.No. 647 of 2020 registered with the Pandharpur City Police Station, Pandharpur, District Solapur for the alleged offence punishable under Section 379 read with 34 of the Indian Penal Code. After seizure of the said vehicle, the applicant filed an application seeking interim custody of his vehicle under Section 457 of the Criminal Procedure Code. The said application was allowed by the learned J.M.F.C. vide order dated 28th October, 2020 on certain terms and conditions, i.e. the applicant shall furnish indemnity bond of Rs.7,00,000/- with solvent surety of Rs.5,000/- on producing 4 colour photographs taken from different angles of the vehicle; that the vehicle shall be kept in an identified condition and shall not be sold nor any charge be created over the vehicle till conclusion of the case; that the applicant shall produce the vehicle as and when required; that the Investigating Officer shall prepare a panchanama of the vehicle at the

time of returning the said vehicle to the applicant. The Investigating Officer was also directed to prepare a panchanama of the seized vehicle at the time of returning the vehicle to the applicant and the panchanama and the indemnity bond with photographs were directed to be furnished alongwith the chargesheet. In addition to these conditions, the learned Judge also imposed the condition i.e. clause (4) as of which modification is sought.

8. The learned Counsel for the applicant states that all the aforesaid conditions (except clause (4)) have been complied with and if not, will be complied with by the applicant.

9. Having heard learned Counsel for the petitioner, in the facts, the petitioner has made out a case for grant of relief i.e. for relaxation of clause (4) of the impugned order dated 28th October, 2020 . In the event, the petitioner is liable to pay penalty, it is always open for the Revenue Authority to recover the same as arrears of land revenue under the provisions of the Maharashtra Land Revenue Code.

10. Considering that the applicant is ready to comply with all the other conditions imposed by vide Order dated 28th December, 2020, the

application is allowed. Accordingly, clause (4) of the order dated 28th October, 2020 passed by the 3rd Judicial Magistrate, First Class, Pandharpur, below Exh.1 in Criminal Miscellaneous Application No. 598 of 2020 is relaxed completely. Rest of the conditions imposed by the Trial Court to remain as it is. On complying with all the other conditions of the order imposed vide dated 28th October, 2020, the petitioner's vehicle be released forthwith.

11. Rule is made absolute on the aforesaid terms. The petition is accordingly disposed of.

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

REVATI MOHITE DERE, J.