

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 221/2021

PETITIONERS : M/s AU Small Finance Bank Limited
Formerly known as M/s AU Fiananciers
(India) Limited, having its registered office
at 19A, Dhuleshwar Garned, Ajmer Road, Jaipur
(Rajasthan)
Having its Branch Office at "SAMEEP TOWER",
4th Floor, East High Court Road, New
Ramdaspath, Nagpur (Maharashtra) through its
Authorized Person Mr Vijay Ramdas Kamble

...VERSUS...

RESPONDENT: 1. State of Maharashtra, through Officer in
Charge, Police Station, P.S.Khaparkheda
Nagpur (Rural).
2. Rajendra Namdeo Pendane,
aged about Major, Occ. Business,
R/o. Bhanegaon, H.No.1160, Ward No.3
New Bhanegao, Nagpur, Accused is in
Central Jail, Nagpur.

Shri D.R.Galande, Advocate for petitioners
Shri Y.B.Mandpe, Advocate for respondent

CORAM : MANISH PITALE, J.

DATE : 29/07/2021.

Hearing was conducted through video conferencing and
the learned counsel agreed that the audio and visual quality was
proper.

2] Heard learned counsel for the petitioner.

Rule.

Learned APP waives service of notice on behalf of respondent No.1.

Rule made returnable forthwith. Heard finally by consent of learned counsel for the parties.

3] By this writ petition, the petitioner Bank has challenged the order dated 14.01.2021, passed by the Court of Additional Sessions Judge, Nagpur, whereby the application filed by the petitioner-Bank for release of vehicle was rejected.

4] It is the case of the petitioner-Bank that it had financed purchase of Vehicle Mahindra Bolero, bearing Registration No. MH-40 KR-1489 by the respondent No.2. The record shows that on 01.12.2019, FIR was registered against respondent No.2 and another accused person for allegedly having caused the death of a person. The allegation appears to be that respondent No.2 along with other accused person gave a dash to the motor-cycle of the victim while driving the said vehicle and thereafter allegedly caused the death of the victim by assaulting him with stone. Upon registration of FIR and during the course of investigation, the said vehicle was taken into custody by the Investigating Officer and it has

been lying with the police as such. The respondent No.2 was arrested in connection with the said offence registered against him and the other accused person under Section 302 r/w 34 of the Indian Penal Code.

5] This Court issued notice in the present petition and the respondent No.2 was served in jail. Despite service, he has chosen not to appear before this Court.

6] The respondent No.1 - State has filed its reply to the present writ petition. The stand taken by the State is similar to the one taken before the Sessions Court, wherein it was submitted that if the vehicle is released in favour of the petitioner-Bank, it would most likely be sold and consequently, it will not be available during the course of trial.

7] Mr. Ansari, learned counsel for the petitioner, submitted that the Sessions Court erred in passing the impugned order and that the vehicle ought to have been released by imposing appropriate conditions, for the reason that the petitioner-Bank is admittedly financier of the said vehicle. Reliance is placed on

various judgments and particularly on the judgment and order, dated 18.02.2020, passed by this Court in **Criminal Writ Petition No. 580/2019**. According to the learned counsel for the petitioner, in identical circumstances, this Court has allowed such an application for release of vehicle.

8] Mr. Chutke, learned APP appearing on behalf of respondent No.1-State submitted that apart from imposing appropriate conditions, a direction may be given to the Investigating Officer to take photograph of the vehicle and to execute a panchnama before releasing the vehicle in favour of the petitioner-Bank.

9] Considering the facts and circumstances of the present case, in the backdrop of the fact that there is no dispute about the petitioner being financier of the vehicle, there should be no impediment in directing release of the vehicle in favour of the petitioner by imposing appropriate conditions.

10] The Sessions Court, in the present case, while passing the impugned order, failed to appreciate the facts and circumstances

in the correct perspective and erroneously rejected the application moved on behalf of the petitioner. There is substance in the contention raised on behalf of the petitioner-Bank that this Hon'ble Court in the aforementioned judgment and order passed in the case of the petitioner-bank itself in Criminal Writ Petition No. 580/2019, in identical circumstances had granted release of vehicle.

11] In view of the above, the present writ petition is allowed. The impugned order dated 14.01.2021 is quashed and set aside. The said vehicle shall be released in favour of the petitioner-Bank subject to appropriate conditions that may be imposed by the learned trial Court i.e the Court of Additional Sessions Judge-10, Nagpur. Upon the conditions so imposed by the learned trial Court being satisfied by the petitioner, the vehicle shall be released forthwith in favour of the petitioner.

12] Rule is made absolute in above terms. No order as to costs.

JUDGE