

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL WRIT PETITION NO. 192 OF 2020

Jagdish s/o Premaramji Vishnoi (Bisnoi),
Aged about 33 years, Occ. - Business,
R/o Cotton Market, Swami Narayan Road,
Palora Road, Dhule, Tahsil and District Dhule. **PETITIONER**

VERSUS

State of Maharashtra,
through PS.O., Hinganghat, Tahsil -
Hinganghat, District – Wardha. **RESPONDENT**

Mr. Mahesh Rai, Counsel for the petitioner,
Mr. V.A. Thakre, Addl.PP. for the respondent/State.

CORAM : ROHIT B. DEO, J.
DATED : 29th JANUARY, 2021

ORAL JUDGMENT :

Rule. Heard finally by consent of the parties.

2. This petition is directed against the order dated 30-6-2018 whereby the learned Additional Sessions Judge, Hinganghat rejected the petitioner's application under Section 457 of the Code of Criminal Procedure for release of the Scorpio vehicle which is seized in Crime 292/2018 for offences punishable under Sections 9(b), 17, 18, 21 and

25 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act).

3. The order impugned is passed on 30-6-2018 and the petition is filed in February, 2020, which would suggest that the contention raised before the trial Court that the petitioner-applicant needs the vehicle for personal work may not be entirely correct.

4. Notably, the petitioner who is the registered owner, is an accused. The vehicle is seized from the petitioner while the same was used for transporting the narcotics. In view of Section 60(3) of the NDPS Act, the vehicle is liable for confiscation unless it is shown by the owner that the vehicle was used without his knowledge. While the issue of confiscation would arise at the stage of the judgment, there is no error in the view taken by the learned Sessions Judge. Mr. Vinod Thakre, learned Additional Public Prosecutor has invited my attention to the decision of the Apex Court in ***Union of India v. Dinesh Kumar Verma, (2005) 9 SCC 330*** to emphasize that the order of the High Court directing release of the vehicle of the accused was set aside. The order of the Apex Court records that in the facts and circumstances, the High Court was not justified in releasing the vehicle.

5. However, even *de hors* the order of the Apex Court, I am

satisfied that no case is made out for release of the vehicle during the pendency of the trial. The possibility that the petitioner, who is on bail, shall misuse the vehicle, is not a fanciful possibility.

6. The petition is dismissed.

JUDGE

adgokar