

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

CRIMINAL WRIT PETITION NO.351 OF 2021

Munot Enterprises through its
Proprietor Shobha w/o Shikharchand Munot
Aged about 61 years, Occ: Business,
R/o Near Jain Mandir, Jain Mandir Ward,
Hinganghat, Dist. Wardha. **PETITIONER**

...VERSUS...

1. The District Collector, Wardha.
2. The District Agriculture Officer, Wardha.
3. The State of Maharashtra through
Police Station Hinganghat. **RESPONDENTS**

Mr. Shaikh Sabahat Ullah, Advocate for Petitioner.
Mrs. K.R. Deshpande, APP for Respondents/State.

CORAM: **ROHIT B. DEO, J.**
DATE: **18th JUNE, 2021.**

ORAL JUDGMENT:

Heard.

2. Rule.
3. With consent, the petition is finally heard.

4. The limited grievance of the petitioner is that vide order dated 13.01.2021 rendered in exercise of power under Section 6A of the Essential Commodities Act, 1955, the Collector, Wardha has imposed condition of furnishing a bank guarantee in the sum of Rs.20.10 lakhs (Rupees Twenty Lakhs and Ten Thousand only) for releasing the truck bearing registration MH-32 AJ-3373 on supratnama. The learned counsel for the petitioner submits that the condition is onerous and it would be extremely difficult, if not impossible, to furnish a bank guarantee.

5. It is not in dispute that the petitioner is the registered owner of the truck. The petitioner is ready and willing to furnish solvent surety in the sum of Rs.20 lakhs. The learned counsel for the petitioner has invited my attention to several orders passed by this Court substituting the bank guarantee condition with solvent surety condition.

6. Perusal of the statutory scheme would reveal that it is not envisaged by the legislature that in every case bank guarantee must be insisted for releasing the vehicle nor is it envisaged that the fine in lieu of confiscation must be equal to the market value. The statutory provisions give ample discretion and the market

price is the outer limit and not the minimum.

7. In this view of the matter, the petitioner has made out a case for this Court to interfere in writ jurisdiction.

8. The impugned order is modified to the extent that instead of a direction to the petitioner to furnish bank guarantee in the sum of Rs.20.10 lakhs, the petitioner is permitted to furnish solvent surety for Rs.20 lakhs to the satisfaction of the Collector, Wardha.

9. Upon furnishing the solvent surety to his satisfaction, the Collector shall release the vehicle seized within seventy-two hours.

10. Rule is made absolute in the aforestated terms.

JUDGE