

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.698 OF 2022

**DATTATRAY NARAYAN KURHAT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

....
Mr. S.A. Patel, Advocate for the Petitioner
Mr. P.G. Borade, APP for Respondent No.1/State
....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 22 AUGUST, 2022

PER COURT:-

. Heard Mr. S.A. Patel, learned counsel for the petitioner. He invited my attention to the orders passed by the Judicial Magistrate, First Class, Court No.2, Newasa in O.M.A. Nos. 23 of 2019, 25 of 2019 and 26 of 2019. He submitted that by the above said orders, the learned Judicial Magistrate, First Class, Newasa was pleased to release the seized truck and two trolleys subject to certain terms and conditions and on furnishing an indemnity bond. He submitted that the owner of the vehicle has committed breach of terms and conditions, more particularly, condition No.2(b). He submitted that the owner of the vehicle has transferred the tractor and two trolleys in the name of two

different persons and thereby committed breach of the conditions of the order passed by the learned Judicial Magistrate, First Class, Newasa. He therefore rushed to this Court.

2. Mr. Borade, learned counsel for respondent No.1/State has pointed out that if the owner of the vehicle has committed any breach of the terms and conditions of the order passed by the learned Judicial Magistrate, First Class, Newasa, the learned Judicial Magistrate, First Class, Newasa has jurisdiction to pass appropriate orders on the application, if any, submitted by the applicant. It is not necessary to approach this court under Article 227 of the Constitution of India.

3. Having regard to the submissions of both the sides, when the efficacious legal remedy is available to the petitioner, he must approach to the learned Judicial Magistrate, First Class, Court No.2, Newasa by filing appropriate application raising grievance about the breach of conditions imposed by the court while releasing the vehicle.

4. Mr. Patel, learned counsel for the petitioner seeks leave to withdraw this writ petition with liberty to file it before the appropriate court.

5. Leave granted.

6. The criminal writ petition is disposed of as withdrawn with liberty to the applicant to file the appropriate application before the Judicial Magistrate, First Class, Court No.2, Newasa regarding breach of conditions imposed by the Court while releasing the vehicle.

7. The learned Magistrate shall decide the application filed by the petitioner on its own merits.

8. The criminal writ petition is disposed of accordingly.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane