

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 730 OF 2022

RAMKRUSHNA ASHRUBA GITE THROUGH GPA HOLDER SANJAY ASHOK
SABLE, AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Mahesh P. Kale
APP for Respondents/State : Mr. S. W. Mundhe

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CORAM : KISHORE C. SANT, J.

DATE : 15th NOVEMBER 2022.

Per Court :

1. By way of present petition, the Petitioners are challenging the order dated 15.02.2022 passed by the learned Additional Chief Judicial Magistrate, Court No.12, Ahmednagar, rejecting the Application under Section 457 of the Code of Criminal Procedure, 1973.
2. It is the case of the Petitioner No.1 that his vehicle registered as MH-16-CC-5895 has been seized by police in a Crime bearing No.

792/2021 for the offences punishable under Sections 3 and 4 of the Essential Commodities Act, 1955 and Section 23 of the Petroleum Act, 1934. The vehicle is a Tanker containing oil, required for the purpose of business carried on by him. The said Tanker is seized by the police on 23.10.2021. He therefore prayed for release of the Tanker.

3. The learned trial Judge in Paragraph No. 4 of the order has observed that as per the letter dated 08.11.2021 by the Sub-Divisional Officer, Ahmednagar to the effect that confiscation proceedings has been initiated before the said authority. It was further stated that exact nature of the oil was not determined and it is the Sub-Divisional Officer, who was seized of the matter. Learned trial Court rejected the application and the same order was challenged in the Criminal Revision Application No. 18/2022. However the Revision also came to be dismissed by order dated 01.04.2022 and therefore now Petitioners are before this Court.

4. Learned APP submits that in fact the action is taken because of the oil/bio-diesel was carried in the Tanker and therefore action is taken

under Essential Commodities Act. He submits that now there is an order passed by the learned Sub-Divisional Officer, Ahmednagar dated 20.06.2022 i.e. after the order passed by the learned Sessions Judge. This order is passed under the Provisions of Essential Commodities Act and he has authority and the power to decide this matter. By this order dated 20.06.2022, learned Sub-Divisional Officer has seized only bio-diesel in the Tanker. He has ordered to dispose off the said chemical (bio-diesel) at a prevailing rate. The amount of proceeds to be deposited with the treasury i.e. 8443 with index no. 8443507401, as the vehicle/Tanker contains 600 liter of bio-diesel is under the Government. It is further ordered that the Petitioner shall file an affidavit and bind himself on a stamp paper of Rs.100 by stating that :

- (a) He will not change the ownership of the vehicle.
- (b) He will not change the colour, model of the vehicle.
- (c) He will produce the said vehicle as and when directed by the Court or the Sub-Divisional Officer.
- (d) He will not object the seizure of the vehicle, in case it is again found involved in any criminal activity.
- (e) This order is subject to orders if any passed by any Court.

5. Considering this, learned APP on instructions, submits that now in fact there is no obstruction and the Petitioner No.1 is free to take his vehicle by following proper procedure.

6. In view of this, learned Advocate for the Petitioners states that he has no objection to act upon the order passed by the Sub-Divisional Officer dated 20.06.2022 at Exhibit R-3 to the petition. He also prays for liberty to withdraw the proceedings initiated under Section 457 of the Cr.PC.

7. Parties to act upon the order dated 20.06.2022 within a period of one week from today. The entire exercise will be completed as early as possible and in any case within two weeks from today.

8. The Criminal Writ Petition is disposed of as withdrawn.

[KISHORE C. SANT, J.]

Najeeb.