

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

19 CRIMINAL WRIT PETITION NO.843 OF 2022

**ANIKET SUBHASH KOLI
VERSUS
THE STATE OF MAHARASHTRA**

Mr.Kazi Rahil Riyazoddin, Advocate for the petitioner.
Mr.Y.G. Gujarati, APP for the respondent/State.

**CORAM : KISHORE C. SANT, J.
DATED : 14.11.2022**

PC :-

01. Heard. This writ petition arises out of application filed under section 457 of the Cr.PC.

02. An offence came to be registered on 25.02.2020 against one minor Girish Patil and Aniket Koli/Ishi. It is allegation of the prosecution that the tractor and trolley were used for transportation of sand. The tractor was being driven by minor accused Girish. The tractor was taken to the police station. This petitioner followed the tractor and told the minor accused to take tractor and trolley while he was speaking to the informant. Taking hint from the petitioner, the minor accused ran away with the tractor, which was later on seized. Initially, the petitioner filed application under section 457 of the Cr.PC. and the same came to be rejected, mainly on the ground that the tractor was not registered at the time of offence and that the name of the petitioner does not tally with the owner of the tractor.

03. After filing of the charge-sheet, the petitioner again moved application under section 457 of the Cr.P.C. The order of rejection was dated 07.06.2021 against that revision came to be filed and the same was also dismissed. After filing of the charge-sheet, the petitioner filed application Exh.3 in the Sessions Court. Again it came to be rejected on the same ground. It is this order, which is challenged in this petition.

04. Learned Advocate for the petitioner points out that after crime was registered, he got vehicle registered and now it is duly registered with RTO, Badwani, Madhya Pradesh. He points out that the original documents of the tractor are with Kotak Mahindra Bank Ltd, who has given him loan. To show that he is owner of the tractor, he has filed affidavit dated 20.08.2022 and has annexed leaving certificate and Aadhar card to show that Aniket Koli and Aniket Ishi are one and same person. From the school record it seems that his caste is shown as Hindu Tokare Koli and his surname is shown as Ishi.

05. Learned APP opposed the application vehemently. Firstly he stated that the offence is serious one and tractor is found transporting sand illegally that too with the help of minor child, who will be tried separately under Juvenile Justice Act. This *modus operandi* shows that the petitioner is making use of even children in illegal activities. He further submits that the vehicle was put in use for illegal purpose without getting it duly registered with the RTO authority. He further submits that if the vehicle is released, the petitioner may not produce it before the Court or before the authorities

whenever it is required. He further submits that there is further contravention of the Motor Vehicles Act.

06. Considering the submissions and considering the fact that now the case is registered, charge-sheet is filed, the vehicle is seized since 25.02.2020 & it is in the custody for more than 20 months, condition of the vehicle is getting deteriorated day by day, it is not in the interest of any party to keep the vehicle idle without any use. This Court, therefore, finds that by taking sufficient security and by imposing some conditions, ends of justice can be met by directing to release the vehicle. Hence, following order :-

ORDER

- i) The vehicle having registration No. MP-46-AA-1506 registered with DTO, Badwani district, Madhya Pradesh be released on executing security bond in the sum of Rs.5,00,000/- (Rupees Five Lakhs) by the petitioner.
- ii) The petitioner to file an undertaking in the Trial Court to the effect that he shall produce the vehicle as and when required by the Court or the authorities as the case may be.
- iii) The petitioner shall not make change in the vehicle and also shall not create any third party interest.
- iv) With these directions the writ petition is disposed off.

[KISHORE C. SANT, J.]