

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

39 CRIMINAL WRIT PETITION NO.1047 OF 2022

**DEEPAK KAUTIK TAYADE
VERSUS
THE STATE OF MAHARASHTRA**

Mr.D.A. Madake, Advocate for the petitioner.
Mrs.D.S. Jape, APP for the respondent/State.

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

PC :-

01. Heard learned Advocate for the parties.

02. Only grievance raised in this petition is that the learned Judicial Magistrate, First Class, while passing order in the Criminal Trial in respect of offence under the Mines and Minerals Act, has put condition of depositing Rs. 1 lakh with the Revenue Authority and execute indemnity bond of Rs.10 lakhs with solvent surety in the like amount. It is submitted by the learned Advocate for the petitioner that his vehicle, namely, tractor bearing Registration No. MH-19 CY 4255 is seized by the authorities and he is being prosecuted for the offences.

03. The petitioner filed application for release of the vehicle under section 457 of the Cr.P.C. The learned JMFC vide order dated 22.02.2022 was pleased to allow the application with conditions as stated above. He submits that the revenue authorities have independent powers and the powers of the

Criminal Courts are not restricted in any manner. Though the offence is related to the Mines and Mineral Act, it is also dealt with by the Revenue Authorities. The revenue authorities are possessing sufficient powers to implement provisions of the Land Revenue Code and the Mines and Minerals Act and thus he submits that this condition is not proper. He challenged this order by filing Criminal Revision Application bearing Criminal Revision Application No. 42 of 2022. However, the learned Additional Sessions Judge, Jalgaon by his order dated 22.04.2022 has rejected the Criminal Revision Application and this is how this writ petition is filed.

04. Learned Advocate for the petitioner further submits that the cost of the tractor at the most as on today is Rs.5 lakhs and some odd amount, as at the time of purchase it was Rs.6.48 lakhs and some odd amount. He fairly submits that he is ready to give solvent surety to the extent of Rs.5 lakhs for tractor and solvent surety Rs.1 lakh for the trolley, which is not registered, thus total solvent surety of Rs. 6 lakhs. He also relies upon judgment passed by the Principal Seat of this Court in Criminal Writ Petition No.3397 of 2021 dated 07.03.2022 as this is a latest one.

05. Having perused the same, this Court finds that case is made out for quashing and setting aside the condition No.2 imposed by learned JMFC i.e. at page No.26 requiring the petitioner to deposit Rs.1 lakh with the Revenue Authority, needs to be modified. Further, it is necessary to modify condition No.1 to the extent directing the petitioner to execute indemnify bond of Rs.10 lakhs with solvent surety in like amount and it also needs to be

modified. Thus, this Court finds that ends of justice would meet by directing the petitioner to execute solvent surety to the extent of Rs.6 lakhs towards tractor and trolley. Hence, following order :-

ORDER

- i) The writ petition is partly allowed.
- ii) Impugned order passed in Criminal Revision Application No.42 of 2022 is quashed and set aside.
- iii) The petitioner is directed to execute bond of solvent surety to the extent of Rs.6,00,000/- (Rupees Six Lakhs) towards condition for release of his tractor bearing registration No. MH-19-CY-4255 with trolley.
- iv) Rest of the order passed by the learned JMFC dated 22.02.2022 is maintained as it is.

[KISHORE C. SANT, J.]