

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5945 OF 2021

Shreyans Pramod @ Pramodkumar Daga	...Petitioner
Versus	
The State of Maharashtra	...Respondent

Mr. Abhijeet Patil i/b Mr. J.G. Aradwad (Reddy) for the Petitioner.

Mrs. Veera Shinde, A.P.P for the Respondent-State.

Mr. Arun D. Phuge – Police Inspector, Solapur Taluka Police Station.

CORAM : REVATI MOHITE DERE, J.
DATE : 21ST JANUARY, 2022
(Through Video Conferencing)

P.C. :

1. Heard learned Counsel for the parties.
2. By this petition, the petitioner has challenged the condition Nos.2 and 3 imposed by the learned Sessions Judge, Solapur vide order dated 14th July, 2021, whilst allowing the petitioner's application seeking interim custody of his vehicles i.e. Mahindra XUV500 AWD W8JA PWH Car colour P-White, bearing Registration No. MH-13/AZ-0600 and Toyota Kirloskar Motor's Fortuner Car Colour S-White, bearing Registration No. MH-13/BN-3636.

3. Learned Counsel for the petitioner submits that the learned Judge, whilst granting interim custody of the vehicles, directed the petitioner to execute a Supurtnama in the sum of Rs.20,00,000/- each and to furnish one or more solvent sureties in the like amount. He submits that the said amount is exorbitant, considering the fact that the vehicles i.e. Mahindra XUV500 is of the year 2012 and Fortuner Toyota is of the year 2015. He further submits that even the direction to furnish bank guarantee/ cash security of Rs. 3,00,000/- each was exorbitant considering that in one vehicle, money and ornaments were found and in another vehicle only clothes were found. Learned Counsel for the petitioner requested that the said amount being exorbitant, be either waived or reduced.

4. Learned APP opposes the application.

5. Perused the papers. The petitioner is the owner of both the vehicles which were seized by the Police alongwith another vehicle in connection with C.R.No.115 of 2021 registered with the Solapur Taluka Police Station for the alleged offences punishable under Sections 188, 201, 380, 454, 457 and 120B of the Indian Penal Code. According to the prosecution, three vehicles were used by the accused, one Mahindra XUV500 bearing Registration No. MH-13/AZ-0600 for carrying money and ornaments, one Fortuner of Toyota bearing registration No. MH-13 BN

3636 for clothes, and one vehicle carrying no items. All the three vehicles were seized by the Income Tax department under the provisions of the Income Tax Act. Admittedly, the petitioner is not an accused in the said case. It is the allegation of the prosecution that the accused in the said case had used the petitioner's said vehicles i.e. one one Mahindra XUV500 bearing registration No. MH-13 AZ 0600 and Fortuner of Toyota bearing registration No. MH-13 BN 3636 in the commission of the offence. It is not in dispute that the petitioner filed an application and sought interim custody of the vehicles. The said application was allowed by the learned Sessions Judge vide order dated 14th July, 2021 on the certain terms and conditions. The operative part of the order reads thus;

“(1) Criminal Revision Application No. 16/2021 is allowed.

(2) Mahindra XUV500 AWD W8JA PWH Car colour P-White, bearing Registration No. MH-13/AZ-0600, Chesis No. MA1YL4HJUC6D82174, Engine No. HJC4D24979 be handed over to the petitioner by way of interim custody on his executing before the concerned Court Supurtnama in the sum of RS.20,00,000/- (Rupees Twenty Lacs only) and on furnishing one or more solvent surety/sureties in the like amount. The petitioner shall also furnish bank guarantee/cash security of Rs. 3,00,000/- (Rupees Three Lacs only) before the concerned Court.

(3) Vehicle Toyota Kirloskar Motor's Fortuner Car Colour S-White, bearing Registration No. MH-13/BN-3636, Chesis No. MBJ1JV61040444630715, Engine No. 1KDU782081 be handed over to the petitioner by way of interim custody on his executing before the concerned Court Supurtnama in the sum of RS.20,00,000/- (Rupees Twenty Lacs only) and on furnishing

one or more solvent surety/sureties in the like amount. The petitioner shall also furnish bank guarantee/cash security of Rs. 3,00,000/- (Rupees Three Lacs only) before the concerned Court.

(4) The petitioner shall furnish the undertaking to abide by the usual terms and conditions including that the petitioner shall not bring about any change in the shape of the vehicle and shall not transfer the same to any third person and shall produce the same before the learned trial Court as and when directed to do so.

(5) Photographs of the vehicle be kept on record while giving interim custody of the same to the petitioner.”

6. The petitioner is aggrieved by clause 2 and 3, inasmuch as, it directs the petitioner to execute the supurtnama in the sum of Rs.20,00,000/- each and on furnishing one or more solvent sureties in the like amount. It also directs the petitioner to furnish Bank Guarantee/Cash Security of Rs.3,00,000/- each before the concerned Court. As noted above, the petitioner is not the accused in the said case. The vehicles i.e. Mahindra XUV 500 is of 2012 and Fortuner Toyota car is of 2015.

7. Considering the aforesaid, in the facts, it would be appropriate to modify the condition in clause 2 and 3 of the impugned order dated 14th July, 2021 passed in Criminal Revision Application No. 16 of 2021, to the extent as stated hereinbelow;

ORDER

(i) The petitioner shall execute a Supurtnama in a sum of Rs. 10,00,000/- instead of Rs.20,00,000/- and furnish one or more solvent sureties in the like amount for Mahindra XUV500 vehicle. The petitioner shall now furnish Bank Guarantee/Cash Security of Rs.50,000/- instead of Rs.3,00,000/- for Mahindra XUV500 vehicle.

(ii) The petitioner shall execute a Supurtnama in a sum of Rs.10,00,000/- instead of Rs.20,00,000/- and furnish one or more solvent sureties in the like amount for Fortuner Toyota vehicle. The petitioner shall now furnish Bank Guarantee/Cash Security of Rs. 25,000/- instead of Rs.3,00,000/- for Fortuner Toyota vehicle.

(iii) Rest of the conditions imposed vide order dated 14th July, 2021 to remain as it is.

8. Accordingly, the petition is disposed of on the aforesaid terms.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.