

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.62/2022

Shri Jagoji Ramaji Dhoble

...Versus...

Collector, Nagpur District, Collector Office, Near Akashwani Chowk, Civil Lines,
Nagpur and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri Arjun Raoka (Jain), Advocate for petitioner
Shri S.M. Ghodeswar, APP for respondents

CORAM : AVINASH G. GHAROTE, J.

DATE : 02/02/2022

1. Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. This petition seeks modification of the order dated 20/12/2021, passed by the respondent no.1 to the extent of Clause-3 of the operative part, in so far as it imposes a condition of furnishing a bank guarantee of Rs.3,50,000/- for releasing of the Bolero Pick-Up vehicle bearing registration No.MH-40-AK-6776.

3. Learned Counsel for the petitioner by relying upon the judgment dated 26/02/2021 in *Mohd. Riyaz Qadir Miya Sheikh Vs. Collector, Nagpur District, Collector Office, Near Akashwani Chowk, Civil Lines, Nagpur and another*

[***Criminal Writ Petition No.136/2021***], submits that in so far as the condition of furnishing bank guarantee for the release of the vehicle, as contained in Section 6-A (1) (c) of the Essential Commodities Act, 1955, it has been held that the legislative intent is not that in every case, the bank guarantee must be for the sum of the market price of the vehicle nor is it mandatory that the fine in lieu of confiscation must correspond with the market price, to the contrary, the provision gives ample discretion and the market price is the outer limit and not the minimum threshold, considering which, he submits that Clause-3 of the operative part be modified by permitting the petitioner, to furnish a solvent surety in the sum of Rs.3,50,000/- instead of bank guarantee.

4. Learned Additional Public Prosecutor for the respondents has no objection, in view of the above position of law, as rendered in ***Mohd. Riyaz Qadir Miya Sheikh*** (supra), considering which, the present writ petition is allowed. Condition no.3 in the impugned order dated 20/12/2021, is modified by permitting the petitioner to furnish a solvent surety in the sum of Rs.3,50,000/-, in lieu of bank guarantee of the said amount, as contained in the said order, for the purpose of release of the vehicle.