

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

CRIMINAL WRIT PETITION NO. 155 OF 2022

Purushottam Pundlikrao Bambal

Vs.

State of Maharashtra

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

Court's or Judge's orders

Mr. A.R.Ingole, Advocate for the petitioner.
Mrs. Mayuri Deshmukh, APP for the respondent/State.

CORAM : AVINASH G. GHAROTE, J.

DATE : 24/03/2022

Heard Mr. Ingole, learned counsel for the
petitioner and Mrs. Deshmukh, learned counsel for the
respondent/State.

2. The petitioner has challenged the order dated 06/12/2021 passed by the learned Judicial Magistrate First Class, Katol, whereby the application under Section 457 the Code of Criminal Procedure (for short, "Cr.P.C.") for releasing the vehicle in the custody of the applicant has been rejected, and the order dated 15/01/2022, whereby the revision against the said order has also been dismissed.

3. It is the contention of Mr. Ingole, learned counsel for the petitioner, that an incorrect vehicle was seized as what

is shown in seizure panchanama, is the seizure of the vehicle bearing registration no. MH-40/BG-8879, however, what has been seized, is the vehicle bearing registration no. MH-40/CD-8879. He therefore submits, that both the Courts below had erred in not accepting the plea in this regard. He submits that even otherwise, presuming that the correct vehicle was seized, considering that the seizure is of dated 21/11/2021, the same ought to have been directed to be released on the terms, as the vehicle was lying idle and was causing loss to the petitioner and also being damaged on this count. He further submits, that an undertaking has been filed in this regard, that in case, both the vehicles owned by the petitioner are involved in the same offence in future, both the vehicles would be surrendered with the Competent Authority including the value of the vehicles. He therefore submits, that the vehicle be released in the custody of the petitioner by unloading the same.

4. Mrs. Deshmukh, learned counsel for the respondent opposes the petition and contends, that since the petitioner is involved in an illegal transportation of sand and the petitioner has indulged into tampering the registration certificate of the said vehicle, the impugned orders have rightly been passed.

5. Though, the vehicle having registration no. MH-40/BG-8879 is shown to have been seized in the seizure panchanama, the registration particulars of the said vehicle indicates, that it is in fact, vehicle having registration no. MH-40/CD-8879. The vehicle is still lying in the custody of the Authorities. Therefore, even though registration number may have been incorrect, which is on account of some smudging of the series in the number plate, it cannot be disputed that the vehicle having registration no. MH-40/CD-8879 has been seized as the same is identifiable from the engine and chassis number, which relate to vehicle having registration no. MH40/CD//8879, considering which, Mr. Ingole, learned counsel for the petitioner does not press this ground.

6. It is however material to note, that the said vehicle has been lying in the custody of the authorities since from 21/11/2021 and there does not appear any reason to continue with the custody in view of the undertaking dated 09/03/2022 placed on record, whereunder the petitioner has categorically undertaken that the said vehicle alongwith the other vehicle owned by him shall not be involved in any single offence in the future and in case, it is so found, the said vehicles would be immediately surrendered to the Competent Authority alongwith the value of the said vehicles, considering which, I do not see any reason not to hand out the custody of

the vehicle to the petitioner who is the undisputed owner of the same and would act to take proper care and upkeep of the same. In view of which, the impugned orders are hereby quashed and set aside and the respondent is directed to handover the custody of the vehicle in question to the petitioner after emptying the sand stored in it, subject to an undertaking submitted by the petitioner that he shall produce the vehicle before the concerned Court in crime no. 604/2021, as and when the same is required and also submit the Bank Guarantee of Rs. 5,00,000/- before the learned Judicial Magistrate First Class, Katol in crime no. 604/2021, which shall be kept alive till the decision of the proceedings. The undertaking dated 09/03/2022 is also accepted by this Court and it is made clear, that in case, if any violation of the same, the petitioner shall be bound to handover the said vehicles, to the Competent Authority alongwith their value. The petition is allowed with above terms. No costs.

JUDGE

B.T.Khapekar