

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

CRIMINAL WRIT PETITION NO.313 OF 2022

Petitioner : **Rabbul s/o Naymul Khan,**
Aged about 41 Yrs., Occ – Business,
R/o. 115, Maa Sharda Housing Society,
Baba Farid Nagar, Hanuman Nagar, Nagpur.

– **Versus** –

Respondents : **1. State of Maharashtra,**
Through the Superintendent of Police,
Bhandara, District Bhandara.

2. The Police Station Officer,
Police Station Paoni, District Bhandara.

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Mr. T.H. Bewali, Advocate for the Petitioner.
Mrs. M.H. Deshmukh, A.P.P. for the Respondents.

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CORAM : **VINAY JOSHI, J.**
DATE : **25th AUGUST, 2022.**

J U D G M E N T :-

Rule. Rule made returnable forthwith. Heard finally with consent of both the parties.

02] The petitioner has impugned herein the order dated 03/01/2022 by which the learned Magistrate has declined to release the petitioner's vehicle, namely a Tipper bearing Registration No.MH-

40/BL/8675 seized by the police authority. The learned Magistrate has rejected the application for the reason that the concerned vehicle was earlier released in another Crime No.168/2020 on Supratnama, of which he has committed breach.

03] The State resisted the application by contending the same thing and additionally stating that the Tipper was found at the place, where there was illegal excavation of sand. However, it is not disputed that the Tipper was found empty at the place of occurrence. Though it is a stand of the State that the revenue authority is empowered for release of the vehicle, however, upon instructions, the learned A.P.P. would submit that the vehicle has not been seized by the revenue authority. It is also informed that till date, no offence is registered nor there is any seizure-panchnama. It reveals from the record that the Tipper is seized by the police and kept in S.T. Depot. Thus, there appears to be no justification for seizure itself. Having regard to the said fact, it cannot be said on *prima facie* basis that there is a breach of earlier Supratnama.

04] Having regard to the above fact, the petition is allowed. The impugned order, dated 03/01/2022 is hereby quashed and set aside.

05] The seized vehicle namely Tipper bearing Registration No. MH-40/BL/8675, Chassis No.14945 and Engine No.63820608 is released on the petitioner furnishing Indemnity Bond of Rs.15,00,000/- (Rupees Fifteen Lakh Only) on the condition that the petitioner shall not alienate or transfer the ownership of the vehicle for the period of six months and if the offence is registered, then till conclusion of the trial. The petitioner shall furnish all side photographs of the Tipper and shall not change outer appearance of the vehicle. The compliance be made in the Court of Magistrate, who has passed the impugned order.

06] Rule made absolute in the above terms.

(VINAY JOSHI, J.)

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