

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

CRIMINAL WRIT PETITION NO. 1217 OF 2022

Ashrubha Baliram Khakare

.. Petitioner

Versus

The State of Maharashtra
Through Police Inspector
Neknoor Police Station
Tq. & Dist. Beed

.. Respondent

Mr. Suvidh S. Kulkarni, Advocate h/f Mr. Vishal S. Kadam, Advocate for the Petitioner.

Smt. D. S. Jape, APP for Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 12th JANUARY, 2023.

P C. :-

. The grievance of the petitioner in this petition is that the learned J.M.F.C., Court No. 4, Beed has passed an order under Section 457 of the Code of Criminal Procedure which reads as below :

“1] The application is hereby allowed.

2] The Investigating officer is directed had over the custody of J.C.B.3DX bearing Registration No. MH23-B-7500, Chasis No. 1364586, Engine No. 4H22510803977 seized in Crime No. 66/2021 of Neknoor Police Station registered under Section 379 of the IPC and 48 (7), 48 (8) of the Maharashtra Land Revenue Code, 1966., to the applicant namely Ashrubha Baliram Khakare till the conclusion of trial on the applicant's executing indemnity bond of Rs. 20,00,000/- (Twenty Lakhs only)

3] Before giving the custody of aforesaid vehicle, I.O. shall snatch coloured photographs from different angles clearly showing the registration number. I.O. shall file photographs and other particulars of the vehicles with charge-sheet. Expenses for photographs shall be borne by the applicant.

4] The applicant shall not to transfer, mortgage, or dispose of the said vehicle in any manner and shall not alter the body, colour, chasis and engine number. He shall not cause any damage to vehicle. He shall produce the same before the Collector/Tahasildar or Court as and when directed.

5] The applicant shall not use the said vehicle for illegal excavation, removal, collecting, replacement, picking, or disposal of mines, minerals and in any type of such offence.

6] The Revenue Authority is at liberty to invoke the powers according to law.

7] Issue letter to concern police station and Revenue Authority accordingly.”

2. The petitioner is aggrieved by condition No. 6 wherein, it is observed that the revenue authority is at liberty to invoke the powers according to law. He submits that, in fact, reading the order as it is, he cannot have any grievance against the order and even to the clause No. 6. He fairly accepts that the revenue authorities may invoke the powers under the Maharashtra Land Revenue Code, however, those are to be independently invoked. His grievance is that because of clause No. 6 the police authorities are not releasing the vehicle in spite of a specific order passed by the learned J.M.F.C.

3. A specific query was made to learned A.P.P. on the last occasion as to whether the police are not releasing the vehicle in view of clause No. 6 of the order. Today, the learned A.P.P. produced on record the documents concerning the said vehicle in which it is seen that the Circle Officer has directed not to release the vehicle till further order by communication dated 18.02.2021 issued to the A.P.I., Police Station Neknoor and it is only in view of this, the police are not releasing the vehicle.

4. It seems that, the police are giving more weightage to the orders or the communication issued by the Circle Officer or the revenue authorities than the judicial orders passed by the Court. It is needless to say that, all the authorities are bound to act upon the orders passed by the Court while exercising judicial powers. The police are still not releasing the vehicle. Certainly, they are acting against the order passed by the learned J.M.F.C.

5. The petition deserves to be allowed. A specific order is issued to the respondent to release the vehicle forthwith that is vehicle J.C.B. bearing registration No. MH 23-B-7500 having Chasis No. 1364586 owned by the petitioner in his custody.

6. The petition is thus allowed in view of the above. The criminal writ petition stands disposed off.

(KISHORE C. SANT, J.)

P.S.B.