

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

936 CRIMINAL WRIT PETITION NO.1748 OF 2022

**ASHOK RAMHARI GHARAT
VERSUS
THE STATE OF MAHARASHTRA**

Mr. Amol S. Gandhi, Advocate for the petitioner
Mr. S. R. Yadav-Lonikar, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 25th JANUARY, 2023

P. C.

1. Heard the learned advocate for the petitioner.

2. The petition is filed seeking release of vehicle of the petitioner bearing registration No. MH-23-AU-3717 Bolero Pick Up of Mahindra Company. The said vehicle is seized in the offence registered at Neknoor Police Station, Dist. Beed dated 23-07-2022 for the offences punishable under Sections 379, 41, 42 read with Section 34 of the Indian Penal Code and Section 26(f) of the Indian Forest Act. It is alleged that on the raid conducted by the police sandal wood was found in the house of the petitioner and some pieces were also found in the said vehicle belonging to the accused. Said vehicle was seized by the police on the allegation that said vehicle is used for illegal

transportation of the sandal wood.

3. Learned advocate for the petitioner submits that the vehicle is lying in the police station since July, 2022. He is falsely implicated in the offence. He submits that by keeping the vehicle in custody of the police no purpose would be served. The vehicle is getting rusty etc. He is ready to abide the conditions imposed by this court if the vehicle is released. His revision application in the Sessions Court is rejected holding that said vehicle is used for serious offence in nature. The court considered the provision of Section 55 to 60 of the Indian Forest Act. It is further observed that confiscation proceeding is started and therefore, it is desirable to wait till the result of the confiscation proceeding. The court further considered that Section 52 of the said Act covers the vehicle i.e. used for illegal transportation of the forest product. It is observed that some pieces were found in the vehicle and therefore had justified the order passed by the learned Magistrate who had refused to release the vehicle.

4. Learned APP opposes the petition saying that from the attending circumstances it is clear that the said vehicle is used for illegal transportation of the sandal wood. If vehicle is released, same may be used for similar type of offence in future.

5. Considering the above submission and considering that it is in nobody's interest to keep the vehicle idle, if the

vehicle is kept in custody there will be only rusting of the vehicle, said vehicle can be released by imposing the conditions and at the same time interest of the prosecution needs to be protected. Hence, following order:-

ORDER

- a] The Criminal Writ Petition stands allowed.

- b] The vehicle bearing registration No. MH-23-AU-3717 Bolero Pick Up of Mahindra Company seized in connection with Crime No.168/2022 dated 23-07-2022 registered at Neknoor Police Station, Dist. Beed dated 23-07-2022 be released on executing Supurdnama on the following conditions:
 - i] The petitioner shall not change the nature of the vehicle and shall not create any third party interest.

 - ii] If the said vehicle is found to have been used for similar kind of offence, the vehicle would be liable to be seized again.

 - iii] The petitioner shall file an undertaking containing all above clauses within two weeks.

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iv] It is only upon filing an undertaking with the Investigating Officer, the vehicle be released.

[KISHORE C. SANT, J.]

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