

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.4466 OF 2022

Kiran Yuvraj Sonwane	... Petitioner
V/s.	
The State of Maharashtra	... Respondent

Mr. S.P. Rajepandhare for the petitioner.

Ms. M.R. Tidke, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 31, 2023

P.C.:

1. The challenge in this petition is to the clause 8 of order dated 22nd October 2018, passed by the learned Judicial Magistrate First Class, Pandharpur in Criminal Miscellaneous Application No.798 of 2018. While exercising power under section 457 of the Code of Criminal Procedure, 1973, the Magistrate after having recorded a finding that the petitioner is entitled to the possession of the vehicle has imposed condition in the form of clause 8.

2. Learned advocate for the petitioner invited my attention to the unreported judgment of this Court in Criminal Application No.190 of 2021, wherein the Single Judge of this Court has taken a view that while exercising such power, the Magistrate cannot impose such condition.

3. Having considered condition No.8, in my opinion, the rights

of the petitioner to get back possession in pursuance of order dated 22nd October 2018 are not affected.

4. It is made clear that the petitioner shall be entitled to possession of the vehicle which was subject matter of application as per order dated 22nd October 2018. However, it is made clear that the authorities exercising power under the Maharashtra Land Revenue Code or Mines and Minerals Act shall independently exercise their powers uninfluenced by order passed by the learned Additional Judicial Magistrate First Class in Criminal Miscellaneous Application No.798 of 2018, dated 22nd October 2018 or order passed by this Court.

5. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)