

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

CRIMINAL WRIT PETITION NO.726 OF 2023

M/s. Glomet Alloys LLP. ...Petitioner
Versus
The Union of India and Ors. ...Respondents

Mr. Ashutosh Kumbhakoni, Senior Advocate a/w Mr. Ajay Singh,
Mr. Stebin Mathew and Ms. Dishya Pandey i/b Mr. Sagar V. Kasar, for
the Petitioner.

Mr. Ashish Chavan a/w Mr. Zishan Quazi and Mr. Manuj Borkar, for
the Respondent No.1.

Mr. Atharva Dandekar a/w Mr. Deep Morabia i/b Fox Mandal &
Associates LLP, for the Respondent Nos.2 to 5.

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : 17th APRIL 2023

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioner has sought the following
substantive relief:-

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- b) Your Lordships may be pleased to issue a writ of mandamus
or any other appropriate writ, order or direction, *inter alia*

directing the Respondents forthwith release the Petitioner's goods seized under Seizure Memo vide MUBO-II/ENF/6911, dated 19.12.2022; and/or on any terms and conditions.”

3. Admittedly, the aforesaid petition was filed on 6th February 2023 seeking the aforesaid relief. Post filing of the aforesaid petition, the respondent No.2 – BIS, Mumbai, filed a complaint before the learned Judicial Magistrate First Class, Panvel on 20th March 2023.

4. Learned counsel for the respondent Nos.2 to 5 does not dispute the fact that the provisions of the Code of Criminal Procedure (Cr. PC) will have to be followed and that an application under Chapter XXXIV Cr.PC. seeking the release of the goods would be maintainable before the learned Magistrate.

5. Considering the fact that the aforesaid petition was filed seeking the above relief, prior to the filing of the complaint by the respondent No.2, we deem it appropriate to relegate the petitioner before the learned Judicial Magistrate First Class, Panvel by filing an appropriate application seeking release of the goods before the learned

Judicial Magistrate First Class, Panvel under Chapter XXXIV Cr.PC.

6. If such an application is filed by the petitioner seeking release of the goods, the learned Magistrate to decide the said application, after hearing the parties, as expeditiously as possible and in any event within three weeks from the filing of the said application.

7. Petition is accordingly disposed of on the aforesaid terms.

8. We make it clear that we have not gone into the merits of the petition and as such all contentions of all parties on merits are kept open.

9. All concerned to act on the authenticated copy of this order.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.