

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

CRIMINAL WRIT PETITION NO. 14 OF 2023

Javed Ahmed Sheikh s/o Shahid
Ahemad Sheikh
Aged about 41 years, occ : Business,
R/o. 703, near Kabrastan,
ward no.4, Rohana, Tehsil-Savner,
District – Nagpur

} .. Petitioner

Versus

1. State of Maharashtra,
Through Superintendent of Police
Nagpur (Rural), Nagpur
 2. The Police Station Officer,
Police Station Khaparkheda,
District-Nagpur
 3. The Police Station Officer,
Local Crime Branch Nagpur (Rural)
Nagpur
- } .. Respondents

Mr. Taranjeet H. Bewali, Advocate for petitioner.

Ms. Mayuri Deshmukh, A.P.P. for all the respondents.

CORAM : VINAY JOSHI AND
VALMIKI SA MENEZES JJ.

PRONOUNCED ON : 22/02/2023

ORAL JUDGMENT

Rule. Rule made returnable forthwith. Heard finally
by the consent of the learned counsel appearing for the parties.

(2) The petitioner's vehicle, namely, JCB bearing registration no. MH 40 P 3375 has been seized by Local Crime Branch, Nagpur on 04/01/2022. The said action has been challenged claiming it to be illegal, arbitrary and high handedness of the police machinery. It is submitted that the seizure is in terms of Section 207 of the Motor Vehicles Act, 1988. No violation of the Motor Vehicles Act, 1988, under Sections 3 or 4 or 39 or Sub Section (1) of Section 66 and therefore, seizure is illegal.

(3) There is no dispute that the Local Crime Branch has seized vehicle of the petitioner on 04/01/2022 and still it is in the custody of the police. It is not disputed that seizure is in terms of Section 207 of the Motor Vehicles Act, 1988. Pertinent to note that though a submission has been made that the petitioner's vehicle was found near sand ghat, however, admittedly no action has been initiated in terms of Section 48(8) of the Maharashtra Land Revenue Code. Time and again, we have requested respondents to file reply to take a particular stand to justify the seizure, however, reply has not been filed.

(4) Section 207 provides authority to seize the vehicle

in a cases as stated therein, but the seizure must be in the prescribed manner, obviously in terms of Rules framed by the State. The respondent-State is unable to justify the seizure as neither Panchnama was drawn, nor prescribed procedure was followed. Moreover, till date no offence has been registered relating to concerned vehicle. Thus, apparently we find that there is no justification for seizure.

(5) In view of the above, the writ petition is allowed. The action of seizure is quashed and set aside. The Authorities concerned are directed to release the petitioner's vehicle within **two weeks** from the date of this order.

[VALMIKI SA MENEZES J.]

[VINAY JOSHI, J.]

KOLHE