



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

928 CRIMINAL WRIT PETITION NO. 1234 OF 2024

SHAIKH SULTAN SHAIKH ALLAWALI

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. Shaikh Abid R, Advocate for the Petitioner

Mr. V. M. Jaware, APP for Respondent State

CORAM : Y. G. KHOBRADE, J.

Dated : 17th October, 2024

PER COURT :-

1. Heard learned Counsel for the Petitioner and the learned APP for the Respondent State.

2. In the case in hand, the vehicle Bolero Truck bearing registration No. MH-29-BE-5472 having Chassis No. MA1ZU2T NKNIF54501 and Engine No. TNN1F69610 is seized in Crime No. 70/2024 for the offences punishable under Sections 11(1)(d),(e). (9,13,5(a),5(b) of Prevention of Cruelty to Animals Act 1960 read with Sections 47(a),48,50,56(c) of Animal Protection Act and Sections 125 of Motor Vehicle Act, 1989.

3. The Petitioner had applied for release of vehicle with Supurtnama under Section 451 of the Criminal Procedure Code. However, on 06.05.2024, the learned Magistrate passed order

below Exh.1 in O.M.C.A. No. 11/2024 and rejected the interim custody. Being aggrieved by the said order, the Petitioner filed Criminal Revision No. 18 of 2024. However, on 27.06.2024, the learned Sessions Court passed the impugned order and rejected the application only on ground that if the interim custody of the vehicle is given to the Petitioner, in that event, there is every possibility that the Petitioner will again use the said vehicle for carrying animals.

4. Needless to say that Section 451 of the Cr.P.C. provides for releasing the property or disposal of the property during pendency of the trial in certain cases. It is an admitted fact that the Petitioner is the registered owner of the vehicle. The vehicle was seized on allegation of transporting cattle illegally. However, it appears that the Petitioner was transporting the animals/ cattle and if the vehicle is not released in favour of the petitioner, in that event, there is every possibility that it may cause damage to the vehicle and the vehicle may ruin, so also, the petitioner will be deprived from earning by using the said vehicle. The petitioner is ready and willing to furnish surety and bond for releasing the vehicle during pendency of the trial. Therefore, to my mind, the Petitioner is entitled for interim custody of the vehicle.

Accordingly, I proceed to pass the following order.

ORDER

- (A) Criminal Writ Petition is allowed.
- (B) The order dated 27.06.2024 passed by the learned Additional Sessions Judge, Bhokar in Criminal Revision Application No. 18 of 2024 and the Order dated 06.05.2024 passed by the learned JMFC, Himayatnagar in OMCA No. 11/2024 are hereby quashed and set aside.
- (C) Vehicle- Bolero Truck bearing registration No. MH-29-BE-5472, Chassis No. MA1ZU2TNKNIF54501 and Engine No. TNN1F69610 seized in Crime No. 70 of 2024 be released in favour of the Petitioner on execution of Surety Bond of Rs. Ten lakhs with an undertaking that the Petitioner will not transfer the said vehicle in favour of any person during pendency of the trial and he shall produce the vehicle as and when directed by the learned Trial Court.

(Y. G. KHOBRAGADE, J.)