

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.56 OF 2024

Ramchandra Ambadas Dalavi

...Applicant

vs.

State of Maharashtra & Anr.

...Respondents

Mr. Rahul S. Kadam:	Advocate for Applicant.
Mr. H.J. Dedhia:	APP for State.

CORAM : S. M. MODAK, J.
DATE : 26th MARCH 2024

P. C. :-

1. Heard learned Advocate Shri Kadam for the Applicant and learned APP.
2. Applicant has taken various steps for getting release of seized truck seized by the Police of Indapur on 26th October 2021. There is FIR filed by the Police Constable Mahendra Pawar on 27th October 2021. When the truck was intercepted he found there was 'wheat' stored in gunny bags titled as "Sonai Cattle Feed". He suspected this wheat was stolen from government godown and that is why, he has seized wheat as well as the truck of Ashok Leyland Company bearing

MH-13-AX-4709 and offence under Section 379, 420 r/w 34 of IPC and under Section 3 and 7 of the Essential Commodities Act was registered. (page 60).

3. My attention is invited to two reports given by Tahasildar, Madha addressed to Tahasildar, Indapur. They are on page 68 dated 2nd November 2021. Both are of the same date i.e. 2nd November 2021. Tahasildar, Madha has opined that the wheat is not from the government godown but it was purchased from agriculturist. The said Tahasildar has given a report because the commodities are loaded from the place within his jurisdiction. The Tahasildar, Indapur has written to the Collector, District Pune for disposal of the “Wheat” and the truck. The Collector as per order dated 11th March 2022 (page 79) has passed the order. It mentions as follows:-

- (a) The seized wheat be sold by public auction and the amount be deposited in the treasury.
- (b) Truck seized be returned to the owner after doing valuation from the RTO and after obtaining Bank guarantee.
- (c) The Applicant is aggrieved by the condition imposed to

furnish Bank guarantee. He filed Writ Petition and Division Bench of this Court as per order dated 13th April 2023 in Criminal Writ Petition No.2478 of 2022 has granted liberty to the Applicant to take recourse to the remedy under Section 451 or 452 of the Criminal Procedure Code. Copy of this order is tendered and marked as.

(d) On this background, he applied before the J.M.F.C., Indapur. As per order dated 25th July 2023, the prayer was rejected. It is on page 93. The reason find place in paragraphs 8 and 9. They are as follows :-

- a. the offence under the Essential Commodities Act, 1955 this Court was pleased to call say of Tahasildar, Indapur and report of Collector, Pune whether the confiscation proceedings were initiated. Say was not filed.
- b. further, Magistrate has taken note of the order dated 11th March 2022 passed by the Collector which is on page 79.
- c. further, trial Magistrate has refused to release the truck

by citing two reasons :-

- (i) vehicle is not insured and
- (ii) no explanation for non-furnishing Bank guarantee.

4. Initially, there was delay in filing this application. It was condoned on 18th January 2024. The Collector has already concluded to release the seized truck to the Applicant. It is true that Revenue Authorities are the proper authorities for release of seized vehicle if there is offence under the Essential Commodities Act. At that time, Applicant was aggrieved by the conditions imposed. Instead of making grievance about those conditions before higher revenue officers, he approached this Court. As liberty was granted by the Division Bench, Applicant was justified in moving the learned Magistrate. In view of the above, this Court can certainly go into the correctness of those conditions.

5. Applicant through his learned Advocate assures that he will obtain insurance prior to getting custody of the truck. I do not think that condition of furnishing Bank guarantee is justified. The Court is not aware whether final charge sheet is filed or not. This Court can expect that the Investigating Officer may consider the report given by

Tahasildar, Madha. If the charge-sheet is already filed at least the concerned Court will take note of the report filed by Tahasildar, Madha at an appropriate stage and that too when any grievance is made. The truck is lying in idle condition at the police station. Day by day, it is affecting efficiency. Even the Hon'ble Supreme Court has held instead of the detaining truck in the Police Station, by putting conditions about obtaining photographs seized truck can be released. These photographs are required for the purpose of proving the identify of the truck when the trial will go on. At least, the Applicant can be asked to furnish an undertaking. In view of that, the following order is passed:-

ORDER

- (i) The Applicant be handed over truck bearing No.MH-13-AX-4709 seized by Indapur Police Station in C.R. 958 of 2021 on furnishing an undertaking that either he will produce the truck or will pay the amount as ascertained by the RTO subject to following conditions:-
 - a. To furnish insurance documents to the police.
 - b. Subject to taking photographs of the truck at the cost of the Applicant and to produce those

photographs and relevant document to the Police so
that they can tender those documents to the
concerned Court.

- c. And subject to valuation to be done Regional
Transport office.
- (ii) Revision Application is disposed of.

[S. M. MODAK, J.]