



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

CRIMINAL WRIT PETITION NO.889 OF 2023

Shri Rahul S/o Premnath Kawre,
Aged about 26 years, Occupation:
Cultivation, Resident of Mangali Chauras,
Tahsil Pauni, District Bhandara.

....PETITIONER

...V E R S U S...

1. State of Maharashtra,
Through Commissioner of Police,
Nagpur, Dist. Nagpur.
2. The Police Station Officer,
Police Station, Paoni,
District Bhandara.

...RESPONDENTS

Shri Raju Kadu, Advocate for petitioner.
Ms Kavita Bhondge, APP for respondents.

CORAM:- M.W. CHANDWANI, J.
DATED : FEBRUARY 15, 2024.

ORAL JUDGMENT:

. **Rule.** Rule made returnable forthwith. Heard finally
with the consent of learned counsel for both parties.

2. A limited grievance raised in the petition is that while
allowing application filed under section 457 of the Code of

Criminal Procedure and directing to release the tractor seized by the Police Station, Paoni, District Bhandara in Crime No.142/2023 for the offences punishable under sections 379 and 511 read with section 34 of the Indian Penal Code, the learned Additional Sessions Judge directed the petitioner to deposit cash of Rs.1,25,000/-.

3. The contention is that such onerous condition should not be imposed while granting temporary custody of the vehicle pending criminal trial.

4. By the order 20.12.2023, this Court has stayed the impugned condition which directs the petitioner to deposit cash of Rs.1,25,000/-. A statement is made that now the tractor has been released and is given to the petitioner on temporary custody in the wake of impugned order. As per section 457 of Cr.PC. the Court, while making order of delivery of the property seized in a crime, has power to impose conditions. The condition shall be in context of the engaging the applicant to preserve the property or to restore the possession if order is modified. The condition should

not be harsh or onerous to the person who is entitled to possess. Directing to deposit cash of Rs.1,25,000/- will be onerous condition while giving temporary custody of the vehicle pending the trial. The learned Additional Sessions Judge could have imposed the condition of execution of *supratnama* bond in the sum of value of said tractor instead of directing to the petitioner to deposit cash of Rs.1,25,000/-. Therefore, the condition needs modification.

5. The impugned condition directing the petitioner to deposit cash of Rs.1,25,000/- as a security is hereby quashed and set aside and is substituted by following condition:

The petitioner shall execute *supratnama* bond in the sum of Rs.6,00,000/- (Rs. Six lakhs only).

6. The petitioner shall comply with the above condition within two weeks.

7. The petition stands partly allowed in above terms. Rule is made absolute.

JUDGE

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