



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

CRIMINAL WRIT PETITION NO. 648 OF 2024

SHEKH RAMZAN SHEIKH LAL

VERSUS

DIST. COLLECTOR, NAGPUR, THRU. FOOD DISTRIBUTION OFFICER, NAGPUR AND ANR

Office Notes, Office Memoranda of Coram,
appearances, Court's Orders or directions and
Registrar's order

Court's or Judge's Order

Mr. Mohd. Naveed Opai, Advocate for the petitioner.
Mr. P. P. Pendke, A. P. P. for the respondent nos.1 and 2.

CORAM : G. A. SANAP, J.

DATE : NOVEMBER 25, 2024.

1. In this petition, challenge is to the judgment and order passed by the learned Additional Sessions Judge, Nagpur, dated 20.05.2024 in Criminal Appeal No. 187/2023, whereby the learned Judge dismissed the appeal filed by the petitioner against the condition no.2 imposed by respondent no.1 - District Collector, Nagpur vide order dated 17.05.2023.

2. Respondent no.1, as per condition no.2 of the order dated 17.05.2023, directed release of the vehicle bearing registration No. MH-29/BZ-0288, subject to furnishing the bank guarantee equivalent to the 100% price of the vehicle.

3. Heard Mr. Mohd. N. Opai, learned advocate for the petitioner and Mr. Piyush Pendke, learned Additional Public Prosecutor for the respondent nos.1 and 2. Perused the record and proceedings.

4. Learned advocate for the petitioner submitted that the petitioner is not an accused in this case. His vehicle was used for transportation of the goods i.e. rice. It is submitted that the vehicle was hired for transportation. The petitioner did not know that the commodity being transported i.e. rice, was procured from the Public Distribution System (PDS) of the Government. In order to seek support to his submission that condition no.2 is unjust and onerous, he has relied upon the decision of this Court in ***Criminal Writ Petition No. 426/2024 (Harji Sambhaji Rajegore .vs. Collector, Nagpur District, Nagpur and another)***, dated 10.07.2024.

5. Learned Additional Public Prosecutor submitted that as per the Government Resolution dated 30.08.2005, the District Collector is duty bound to direct the release of the vehicle, subject to furnishing bank guarantee of 50% of the price of the vehicle.

6. I have gone through the record and proceedings. In my view, this case is covered by the decision in *Cri.W.P. No. 426/2024*, decided on 10.07.2024 (supra). The petitioner is not concerned with the commodity. While deciding *Cri.W.P. No. 426/2024*, this Court has considered various decisions rendered by the coordinate bench of this Court.

7. In my view, the condition directing the petitioner to furnish the bank guarantee would be unjust and onerous. The condition, therefore, deserves to be modified.

8. In view of the above, the petition is allowed.
9. The judgment and order dated 20.05.2024 passed by learned Additional Sessions Judge, Nagpur, in Criminal Appeal No. 187/2023, is quashed and set aside.
10. The condition no.2 imposed by respondent no.1 vide order dated 17.05.2023 is modified.
11. The petitioner, in place of bank guarantee, shall furnish the solvent surety as provided under clause 2 of the order dated 17.05.2023.
12. The petition stands disposed of in the aforesaid terms.

(G. A. SANAP, J.)

Diwale