



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

CRIMINAL APPLICATION [APL] NO. 912 OF 2024

RANJAN S/o MANIRAM KAMBLE

VERSUS

STATE OF MAH., THRU. P.S.O, P.S., BHADRAWATI, DIST. CHANDRAPUR

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

Court's or Judge's Order

Mr. Arjun Deshmukh, Advocate h/f Mr. R. R. Vyas, Advocate for the
applicant.

Mr. Piyush P. Pendke, A. P. P. for the non-applicant/State.

CORAM : G. A. SANAP, J.

DATE : SEPTEMBER 04, 2024.

1. Heard finally Mr. Arjun Deshmukh, learned advocate holding for Mr. R.R. Vyas, learned advocate for the applicant and Mr. P.P. Pendke, learned Additional Public Prosecutor for non-applicant/State. Perused the record and proceedings.

2. In this application, challenge is to the order dated 05.06.2024, passed by learned Additional Sessions Judge, Warora, Dist. Chandrapur, whereby the learned Judge rejected the revision application, bearing No. 06/2024, filed by the applicant against the order passed by learned Judicial Magistrate, First Class, Bhadrawati, dated 07.03.2024 in Misc. Cri. Application No. 21/2024. By order dated 07.03.2024, learned Magistrate rejected the application made by the applicant for release of truck bearing registration No. MH-31/M-3472.

3. The truck in question was seized by the Tahsildar, Bhadrawati, which was used for the purpose of carrying two brass *rawadi* i.e. stone, illegally. The truck with the stone, was parked in the premises of the Tahsil office, Bhadrawati. The applicant, without the permission of the Tahsildar, removed the truck with the stone from the premises of the Tahsil office. A report of theft was lodged with Police Station, Bhadrawati. On the basis of the said report, a crime bearing No. 607/2023 was registered against the applicant for the offence punishable under Section 379 read with Section 34 of the Indian Penal Code. The truck was seized in the said crime. The applicant made an application for release of the truck. The learned Magistrate rejected the prayer. A revision filed against this order was also rejected by the learned ASJ. The applicant is, therefore, before this Court.

4. It is seen on perusal of the record that vide order dated 13.12.2023, the Tahsildar, Bhadrawati has directed the applicant to pay the penalty for illegal transportation of two brass *rawadi* i.e. stone. The Tahsildar, Bhadrawati directed the applicant to submit a bond before the Sub Divisional Magistrate, Warora. The SDM, Warora, by his order dated 20.12.2023 directed the applicant to pay penalty of Rs.1,26,200/-. The SDM Warora ordered release of the truck, on furnishing a bond of Rs.5,00,000/- (Rupees Five lakhs only). Learned advocate for the applicant has

placed on record a pursis dated 04.09.2024 along with a copy of the bond submitted before the SDM Warora, dated 28.08.2024. It is, therefore, evident that as far as the proceedings before the revenue authorities is concerned, it has been finally decided. The order of SDM, Warora has attained finality. It is further evident on perusal of the order passed by the SDM that he has directed the applicant not to use this vehicle in future for illegal transportation of the minerals.

5. Learned Magistrate, as can be seen from the order, has observed that at the time of commission of theft, the vehicle in question was in the custody of the revenue department. The Tahsildar has also observed that the interim custody of the truck cannot be handed over to the applicant because the truck was involved in illegal transportation of minerals. The learned Sessions Judge has taken into consideration the serious nature of the crime committed by the accused. It is to be noted that in view of the registration of the crime, the accused has to face the prosecution. The truck has been seized in the said crime. The proceedings initiated before the Tahsildar has been terminated with the order of SDM, as stated above. The applicant has to face the prosecution for the offence of theft.

6. In my view, considering the nature of the crime, it would be just and proper to release the vehicle to the

applicant. No fruitful purpose would be served by detaining the vehicle in the custody of the police for indefinite period. The case may take its own time for final adjudication. In view of this position, the learned Magistrate as well as learned Additional Sessions Judge ought to have passed the order of release of the truck in question, subject to appropriate conditions.

7. In view of the above, the criminal application is allowed.

8. The order dated 07.03.2024 passed by learned Judicial Magistrate, First Class, Bhadrawati and the order dated 05.06.2024 passed by learned Additional Sessions Judge, Warora, are set aside.

9. The application (Exh.1) in Misc. Criminal application No. 21 of 2024 is allowed.

10. The custody of truck bearing No. MH-31/M-3472 be handed over to applicant – Ranjan S/o Maniram Kamble, on furnishing Surety Bond for Rs.5,00,000/- (Rupees Five Lakhs only).

11. The applicant shall file an undertaking before the Judicial Magistrate, First Class, Bhadrawati that in future, he will not use the truck in question for illegal

transportation of the minerals.

12. The applicant shall also file an undertaking that as and when directed by the Court, he will produce the truck in question before the Court.

13. The applicant shall not change the identity of the truck in question in any manner.

14. The application stands disposed of in the aforesaid terms.

(G. A. SANAP, J.)

Diwale