



is have been carried out in view of speaking to minutes of the order dated 05.05.2025)

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

909 CRIMINAL WRIT PETITION NO. 194 OF 2024

KHALED ABDUL PATHAN

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

AND

910 CRIMINAL WRIT PETITION NO. 195 OF 2024

VYANKATESH HARIBHAU CHALAK

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Mr. Bhosale Mahesh Kalidas
APP for the Respondent Nos. 1 to 3 : Mr. S.M. Ganachari

...

CORAM : SHAILESH P. BRAHME, J.

DATE : 28th MARCH 2025

PER COURT :

. Heard these matters finally at the admission stage. As the facts and circumstances are identical and they are emanating from one offence bearing C.R. No.404/2023 registered at Excise Office, Beed against the Petitioners, they are decided by common order.

2. Petitioners in both the matters have limited grievance that while releasing their vehicles, trial Court imposed onerous conditions vide order dated 24.11.2023 of furnishing bond as well as cash surety of the amount of indemnity bond. Being aggrieved, revisions were preferred by them. The Revisional Court by order dated

22.12.2023 modified the conditions in question by directing the Petitioners to furnish bank guarantee.

3. Learned Counsel for the Petitioners submits that the conditions of furnishing cash surety or bank guarantee are onerous and unexecutable. There is no rival claim for the vehicles in question. As per the earlier orders of this Court, Petitioners have already filed undertaking by additional affidavit. Those are sufficient to ensure that vehicles would be used for lawful purpose and would be produced as and required.

4. Learned APP opposes the submissions of the Petitioners. He would submit that vehicles are involved in serious offence. Considering peculiar facts and circumstances, the conditions imposed by both the authorities are justified.

5. There are in all three vehicles involved namely (i) Eicher Tempo No.MH-12-PQ-7895 (ii) Mahindra Bolero Pickup No.MH-25-AJ-0063 and (iii) Toyota Innova Crysta No. MH-23-AD-5161. The custody of Eicher is claimed by the Petitioner in Criminal Writ Petition No.195/2024, whereas the custody of remaining two vehicles is claimed in Criminal Writ Petition NO.194/2024. The entitlement of the Petitioners to have the custody of the vehicles is not in dispute.

6. In pursuance of the order passed by this Court on 12.02.2025, Petitioners have filed additional affidavit which is in

nature of undertaking. I am of the considered view that the undertaking tendered would suffice the purpose. The condition of bank guarantee is unreasonable and harsh and would result in lying the vehicles in idle condition at the police station. The practical approach has to be adopted by permitting the Petitioners to receive the vehicles as per additional affidavit. I, therefore, pass following order :

ORDER

- (a) Both the Criminal Writ Petitions are allowed partly.
- (b) The judgment and order dated 22.12.2023 passed in Criminal Revision Application No.102/2023 and 103/2023 are modified by following conditions :

(i) Petitioners shall be permitted to receive respective vehicles on solvent surety and bond of Rs.6,92,400/- in Criminal Writ Petition No.195/2024 and Rs. 9,50,000/- in Criminal Writ Petition No.194/2024.

(ii) The additional affidavits tendered by the Petitioners before this Court dated 03.03.2025 shall be treated as undertaking as well as conditions to be abide by the Petitioners.

(iii) Criminal Writ Petitions are disposed of.

SHAILESH P. BRAHME
JUDGE