



( 1 )

51-WP-788-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

51 CRIMINAL WRIT PETITION NO. 788 OF 2025

Vikas Bhanuas Kambale

VERSUS

The State Of Maharashtra

...

Mr. Vaibhav B. Dhage, Advocate for the Petitioner.

Smt. A. S. Deshmukh, APP for Respondent-State.

CORAM : KISHORE C. SANT, J.

DATE : 4<sup>th</sup> JULY 2025.

PC :-

1. Heard Mr. Dhage, the learned Advocate for the petitioner and Smt. Deshmukh, learned APP for Respondent-State. The matter is taken up for final disposal at the state of admission.
2. In the present writ petition, the petitioner is challenging the order dated 24<sup>th</sup> February 2025, passed by the learned Judicial Magistrate First Class, Loha, Dist. Nanded, rejecting the application of the petitioner under Section 451 of Cr.P.C. The application was filed for release of a vehicle bearing No. MH-26-CJ-0807 of TVS company, Model Jupitar. The vehicle was seized in connection with an offence registered under

Section 65-E of the Maharashtra Liquor Prohibition Act, 1949 bearing Crime No.36 of 2025, with Loha Police Station. The vehicle was found used for transporting a liquor.

3. It is the case of the petitioner that he did not use the said vehicle for transporting liquor. The vehicle was lent to his friend for some work. It is the friend who misused the vehicle and used it for transportation of liquor without knowledge of this petitioner.

4. The learned JMFC considered that the said vehicle was found transporting liquor even on earlier occasion. The liquor found was 48 sealed bottles of country-made liquor, brand *Bhingri Santra*. The court considered the reason given that the vehicle was given to a friend for going to dispensary. However, the court found that earlier the same vehicle was involved in crime No.145/2024, registered with same police station for the same offence. On earlier occasion, the vehicle was released on a condition that it would not be used for a similar purpose in future. The vehicle is not even insured etc. and rejected the application.

5. The learned Advocate for the petitioner fairly submits that though the vehicle is found in the same kind of offence for the second time, the

petitioner is ready to undertake that henceforth vehicle will not be used for any such activity in future. It is further submitted that keeping the vehicle in idle position is not in the interest of any of the parties. He thus prays for allowing the writ petition.

6. During the course of argument, the learned Advocate for the petitioner relied upon the judgment in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat***.<sup>1</sup>

7. Learned APP vehemently opposed the petition. She submits that the vehicle is used very often for the same kind of offence. There is clear violation of the condition that was put on earlier occasion. Looking to the quantity of liquor being transported, it is seen that the vehicle was consciously used for transporting the liquor. She therefore prays for rejection of the writ petition.

8. The Hon'ble Supreme Court, in the case of ***Sunderbhai Ambalal Desai*** (supra), has laid down the guidelines for release of the property and the procedure to be followed by police upon seizure. It was held that the court is empowered to pass appropriate orders, in cases (1) for

1 (2002) 10 SCC 283

the proper custody pending conclusion of inquiry or trial; (2) to order it to be sold or otherwise disposed of, after recording such evidence as it thinks necessary; and (3) if the property is subject to speedy and natural decay, to dispose of the same. It is further held in paragraph No. 7 of the said judgment which reads as follows:

“7. In our view, the powers under Section 451 CrPC should be exercised expeditiously and judiciously. It would serve various purposes, namely:

1. owner of the article would not suffer because of its remaining unused or by its misappropriation;
2. court or the police would not be required to keep the article in safe custody;
3. if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and
4. this jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.”

9. This Court has considered the submission, the impugned order and the ratio of the cited judgment. This Court, in the present case, finds that there is clear misuse of the vehicle. Even the same vehicle was released once, having found being used for similar kind of activity. Therefore, the judgment of the Supreme Court is not applicable to the facts of the present case.

10. Considering the above, this court is not inclined to allow the writ petition. Writ petition is, therefore, dismissed and disposed off.
11. The trial Court is requested to expedite the trial.

**[KISHORE C. SANT, J.]**