



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

CRIMINAL WRIT PETITION NO. 1459 OF 2024

Ajay Sunil Chavan
Age- 31 Years, Occu. Business,
R/o. Near Radhakrushna Temple
Fegane, Tq Dist. Dhule

... PETITIONER

VERSUS

1. The State of Maharashtra
Through Police Station, Nashirabad
Tq. Dharangaon, Dist. Jalgaon,
Through its Police Inspector
2. Sub-Divisional Officer, Jalgaon
Tq and Dist. Jalgaon
3. Tahsildar Jalgaon (Supply),
At Jalgaon, Tq and Dist. Jalgaon

... RESPONDENTS

AND

CRIMINAL WRIT PETITION NO. 1460 OF 2024

Nilesh Namdeo Musale
Age- 44 Years, Occu. Business,
R/o. Gannbappa Nagar Dharangaon,
Tq. Dharangaon, Dist. Jalgaon

... PETITIONER

VERSUS

1. The State of Maharashtra
Through Police Station, Nashirabad
Tq. Dharangaon, Dist. Jalgaon,
Through its Police Inspector

2. Sub-Divisional Officer, Jalgaon
Tq and Dist. Jalgaon
3. Tahsildar Jalgaon (Supply),
At Jalgaon, Tq and Dist. Jalgaon ... **RESPONDENTS**

....

Mr. Ajay G. Talhar, Advocate for the Petitioners
Ms Chaitali Chaudhari – Kutti, APP for the Respondents in Criminal
Writ Petition No.1459 of 2024
Ms Ashlesha S. Deshmukh, APP for the Respondents in Criminal Writ
Petition No.1460 of 2024

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CORAM : Y. G. KHOBRADE, J.

RESERVED ON : 04.03.2025
PRONOUNCED ON : 27.03.2025

JUDGMENT :-

1. Rule. Rule made returnable forthwith and with consent of the parties, heard finally at the stage of admission.
2. In Writ Petition No. 1459 of 2024, the Petitioner, who is owner of truck bearing MH-18/BZ-1039, put forth prayer clauses (C) and (D), as under:-

“(C) By appropriate writ order or direction, the Order dated 24.04.2024 passed by the Additional Session Judge in Appeal No.11 of 2024 may kindly be quashed and set aside qua to the part of clause No.3 i.e. directing to execute surety bond to the satisfaction of SDO Jalgaon.

(D) By appropriate writ order or directions, Order dated 22.05.2024 passed by the Sub-Divisional Officer Jalgaon may kindly be quashed and set aside.”

3. In Writ Petition No.1460 of 2024, the Petitioner, owner of the commodities, put forth prayer clauses (C) and (D), as under:-

“(C) By appropriate writ order or direction, the Order dated 24.04.2024 passed by the Additional Session Judge in Appeal No.10 of 2024 may kindly be quashed and set aside qua to the part of clause No.3 i.e. directing to execute surety bond to the satisfaction of SDO Jalgaon.

(D) By appropriate writ order or directions, Order dated 22.05.2024 passed by the Sub-Divisional Officer Jalgaon may kindly be quashed and set aside.”

4. In both these Petitions, on 04.10.2023, Crime No.0171 of 2023 is registered with Nashirabad Police Station, District Jalgaon, for the offence punishable under Sections 3, 7 of the Essential Commodities Act. The Police Head Constable Mr. Suraj Madhukar Patil, lodged the report that, on 04.10.2023 at about 9.24 p.m., he conducted raid after receiving the information from reliable sources about purchase of 302 quintal rice, which is made for public supply by the petitioner from Balaji Traders under invoice No.465 and being transported 550 bags rice to Bamleshwari Rick Sortex, Gondia, in goods carrier vehicle No.MH-18/BZ-1039, therefore, said truck was

intercepted and confiscated by the Sub Divisional Officer under Section 6A(2)(i) of the Essential Commodities Act, 1955 vide order dated 25.01.2024 and directed the Tahsildar to deposit said commodities in the Government godown. It is also directed the Tahsildar to recover the value of truck as a fine for release of the truck and to deposit with the Government.

5. Being aggrieved by the said order, Mr. Nilesh Namdeo Musale, the owner of the commodities, filed Criminal Appeal No. 10 of 2024, whereas Mr. Ajay Sunil Chavan, the owner of Truck filed Criminal Appeal No.11 of 2024 under Section 6C of the Essential Commodities Act before the Sessions Court, Jalgaon.

6. On 24.04.2024, the learned Additional Sessions Judge, passed the Judgment in both the appeals and set aside the order of confiscation of the commodities and truck passed by the Sub Divisional Officer, Jalgaon, on 25.01.2024 in Crime No.171 of 2023 registered with Nashirabad Police Station, District Jalgaon. It is further directed to return 550 bags of rice to the Petitioner in Criminal Writ Petition No.1460 of 2024 on execution of his personal and surety bond to the satisfaction of the Sub Divisional Officer,

Jalgaon. In Criminal Appeal No.11 of 2024, the learned Additional Sessions Judge quashed and set aside the order of confiscation of truck passed by the learned Sub-Divisional Officer, Jalgaon in Crime No.171 of 2023 and directed the Sub-Divisional Officer, Jalgaon to return the vehicle No.MH-18/BZ-1039 of Tata Motors Limited to the Petitioner Shri Ajay Sunil Chavan on execution of his personal and surety bond to the satisfaction of the Sub-Divisional Officer.

7. In both the Petitions, it is the grievance of the Petitioners that as per judgment and order dated 24.04.2024 passed by the Additional Sessions Judge, Jalgaon in Criminal Appeal No.10 of 2024 and 11 of 2024, the commodities of 550 rice bags and truck are directed to release on execution of personal and surety bond to the satisfaction of the Sub-Divisional Officer, Jalgaon. However, on 22.05.2024, the Respondent No. 2 the Sub-Divisional Officer, Jalgaon, passed the orders and directed to release the commodities and vehicle on execution of personal bond and on furnishing 50% of bank guarantee of Nationalised Bank in contravention of the judgment and order passed by the learned Additional Sessions Judge on 24.04.2024 in Criminal Appeal Nos.10 of 2024 and 11 of 2024.

8. Mr. Talhar, the learned counsel for the Petitioners in both the Petitions canvassed in vehemence that, when the learned Sessions Judge passed the judgments in both the Appeals directing for release of commodities and seized Vehicle on execution of personal surety and security bond, therefore, the Respondent no. 2 Sub-Divisional Officer has no authority to modify the conditions of release of commodities and truck on furnishing personal bond and the Bank guarantee of 50% price of the commodities and Vehicle. Therefore, the impugned orders dated 22.05.2024 passed by Respondent No.2 Sub Divisional Officer, Jalgaon is illegal, bad in law, hence, prayed for quash and set aside the same.

9. It is further canvassed that, while passing the judgment and order dated 24.04.2024, the learned Additional Sessions Judge recorded findings as per inquiry conducted by the Civil Supply Officer, Jalgaon, the seized rice/commodities is not subject of the public civic supply office (ration) and documents produced on record apparently proves that the Petitioner Shri Nilesh Musale, in Criminal Writ Petition No.1460 of 2024 is the owner of said commodities. The prosecution failed to show that, Shri Nilesh Musale has breached any order issued by the authorities under the Essential Commodities Act.

Therefore, there was no occasion to the District Supply Officer to seize the commodities and vehicle. The material placed on record shows that, the Public Civic Supply Inspector has exceeded his jurisdiction and seized said commodities. It is submitted that, the Respondent prosecution has not challenged findings of the learned Session Court before the competent Court. Therefore, calling upon both the Petitioners for furnishing bank guarantee of 50% of commodities and Vehicle is certainly contrary to the judgment and order passed by the learned Sessions Court on 24.04.2024. Hence, prayed for quash and set aside the impugned orders dated 22.05.2024 passed by Respondent No.2 Sub Divisional Officer, Jalgaon.

10. Per contra, Ms Ranjana Maroti Bahade, Civil Supply Inspecting Officer, has filed affidavit-in-reply and strongly opposed the Petitions. The learned APP canvassed in vehemence that, as per Clause(3) of the judgment and order dated 24.04.2024 passed by the Additional Sessions Judge, Jalgaon in Criminal Appeal Nos.10 of 2024 and 11 of 2024, the Respondent No. 3 is under obligation to return 550 bags of rice (commodities) and vehicle to the respective Petitioners on execution of personal bond and surety to the

satisfaction of Respondent No.2 Sub Divisional Officer. Therefore, in compliance of the Judgment passed by the learned Session Court, the Petitioners in both the Petitions have submitted the applications and prayed for release of commodities and vehicle. Therefore, in exercise of said discretionary directions, the Respondent No.2 called upon the Petitioners to submit personal bond and bank guarantees of 50% of the commodities and vehicle, which is just and proper. However, both the Petitioners have failed to comply with the directions under communication dated 22.05.2024, hence, prayed for dismissal of both the Petitions.

11. Having regard to the submissions canvassed on behalf of both sides, I have gone through the petition paper book. It is not in dispute that, on 03.10.2023, 14 Tyres Vehicle/Truck bearing No.MH-18/BZ-1039 came to be seized with commodities/rice containing 550 bags weighing 50 kg each total 29490 kg., Rice presuming it is public civic supply office commodities and Vehicle in which said commodities were transported. The necessary seizure panchanama was drawn. It is not in dispute that, the Respondent No.2 initiated confiscation of commodities and vehicle proceeding under Section 6A of the Essential Commodities Act. After providing opportunity of

hearing, on 25.01.2024, the Respondent No.2 Sub Divisional Officer passed the order and confiscated seized commodities of 550 bags containing rice weighing 50 kg., per bag, total 29490 kg., under Section 6A(2)(i)(ii) of the Essential Commodities Act. However, the seized vehicle was directed to be released in favour of the vehicle owner after recovery of price of the vehicle toward fine. So also, to return 550 bags rice to the Petitioner on executing his personal bond and surety bond to the satisfaction of the Sub-Divisional Officer, Jalgaon.

12. It is a matter of record that, being aggrieved by said order, Mr. Nilesh Namdeo Musale, the owner of the commodities filed Criminal Appeal No.10 of 2024, whereas, Mr. Ajay Sunil Chavan, the vehicle owner filed Criminal Appeal No.11 of 2024 under Section 6C of the Essential Commodities Act before the Sessions Court, Jalgaon. It is not in dispute that, as per the notification issued by Law and Judiciary Department, Government of Maharashtra, on 15.09.2009, all the judicial officers presiding over the Court of Sessions in the State of Maharashtra are authorised to hear the appeals under Section 6C of the Essential Commodities Act within their respective jurisdiction.

13. Indeed, on 24.04.2024, the learned Additional Sessions Judge, passed the judgment and held that, the inquiry conducted by the Civic Supply Officer, Jalgaon, indicates that the seized commodities (rice) is not subject of Civic Supply Office (Ration). The documents which have been produced on record shows that, Mr. Nilesh Namdeo Musale (Petitioner in Criminal Writ Petition No.1460 of 2024), is the owner of seized commodities, however, the prosecution failed to show that, the Petitioner Mr. Nilesh Namdeo Musale has breached any order issued by the authorities under the Essential Commodities Act, hence, there were no occasion for the District Supply Officer to seize such commodities and the vehicle in which seized commodities were being transported. Therefore, directed to release said commodities in favour of owner on execution of personal bond and surety bond to the satisfaction of Respondent No.2 Sub-Divisional Officer.

14. Needless to say that, on 24.04.2024, the learned Sessions Judge, passed the judgment and order in Criminal Appeal Nos. 10 of 2024 and 11 of 2024 and set aside order of confiscation of commodities passed by Respondent No.2 Sub Divisional Officer in

connection with Crime No.171 of 2023 and directed to return the vehicle/truck No.MH-18/BZ-1039 in favour of the vehicle owner on execution of personal bond and surety bond to the satisfaction of Respondent No.2 Sub-Divisional Officer.

15. The judgment and order dated 24.04.2024 passed by the Additional Sessions Judge, it clearly indicates that the Petitioners are owners of commodities and vehicle and both of them are requires to furnish only personal and surety bond to the satisfaction of Respondent No.2 Sub-Divisional Officer, Jalgaon. However, on 22.05.2024, the Respondent No.2 Sub Divisional Officer, Jalgaon, passed the impugned orders and called upon both the Petitioners to furnish personal bond and Bank guarantee of Nationalized Bank of 50% of price of the commodities and vehicle, which is contrary to the condition prescribed by the learned Sessions Judge in Judgment dated 24.04.2024 passed in Criminal Appeal Nos. 10 of 2024 and 11 of 2024. The Respondent No.2 Sub Divisional Officer has not given any justification in respect of calling both the Petitioners to furnish bank guarantee of 50% of price of seized commodities and vehicle, though the learned Sessions Judge has recorded findings that the seized commodities is not of civic supply scheme. So also, there was

no occasion to the District Supply Officer to seize the commodities and vehicle. Under these circumstances, the Respondent No.2 Sub-Divisional Officer ought not to have called upon the Petitioners to furnish bank guarantee of nationalized bank of 50% of price of commodities and the vehicle. Therefore, impugned orders dated 22.05.2024 passed by the Respondent no. 2 Sub-Divisional Officer, are illegal, bad in law as well in contravention of the condition prescribed in Judgment dated 24.04.2024 passed by the learned Sessions Judge. Therefore, to my view, the Respondent No.2 Sub-Divisional Officer exceeded his jurisdiction and tried to modify conditions of orders passed by the learned Sessions Judge while releasing seized commodities and vehicle. Therefore, the impugned orders are liable to be quashed and set aside. In view of above discussion, I am inclined to grant both the Criminal Writ Petitions and proceed to pass the following order:-

:: ORDER ::

- (i) Both the Criminal Writ Petitions are allowed.
- (ii) The impugned orders dated 22.05.2024 passed by the Respondent No.2 Sub-Divisional Officer, Jalgaon, are hereby quashed and set aside.

- (iii) The Respondents are hereby directed to release the seized commodities in favour of the Petitioner in Cri.W.P. No. 1460 of 2024 Mr. Nilesh Namdeo Musale on execution of personal bond and sureties of Rs.5,00,000/- (Rupees Five Lacs).
- (iv) The Respondents are hereby directed to release the seized vehicle bearing No.MH-18/BZ-1039 on execution of personal bond and sureties of Rs.25,00,000/- (Rupees Twenty Five Lacs) in favour of vehicle owner Mr. Ajay Sunil Chavan, the Petitioner in Cri. W. P. No.1459 of 2024.
- (v) Rule is made absolute in above terms.

[Y. G. KHOBRAGADE, J.]

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