



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

933 CRIMINAL WRIT PETITION NO. 1814 OF 2024

RAMCHARAN NAYANKUMAR JAISWAL

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. M. A. Granthi & Mr. V. D. Karande, Advocates for the Petitioner
Ms. A. S. Deshmukh, APP for the Respondent-State

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 16.01.2025

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. With consent of both the parties, it is heard finally at the stage of admission.

2. By the present Petition, the Petitioner takes exception to the order dated 06.09.2024 passed by the learned Additional Sessions Judge, Bhokar, Tq. Bhokar, Dist. Nanded in Criminal Revision Application No.21 of 2024, thereby affirmed order dated 08.05.2024 passed by the learned Judicial Magistrate First Class, Himayatnagar, in Other Miscellaneous Criminal Application No.16 of 2024, thereby declined the prayer of the Petitioner for release of Mahindra Company's Bolero Jeep No. MH 26 BC 4423.

3. It is not in dispute that, the Petitioner is the owner of Mahindra Company's Bolero Jeep No. MH 26 BC 4423, however, the said vehicle was seized on 29.11.2021 in connection with Crime No.349 of 2021 registered with Himayatnagar Police Station for transporting illegal country liquor. The State Excise Officer seized illegal country liquor as well as the vehicle for the offence punishable under Section 65 of the Bombay Prohibition Act.

4. No doubt, on 08.05.2024, the learned Judicial Magistrate First Class, Himayatnagar passed an order and declined to release the vehicle in favour of the Petitioner on ground that, earlier similar nature of crime was committed by the Petitioner and had used the vehicle in question for transportation of illicit liquor. The said vehicle was released in favour of the Petitioner on furnishing undertaking that, the Petitioner would not use the vehicle in question for transporting of illegal country liquor, however, the Petitioner again committed a similar nature of offence and used the vehicle for transporting illicit liquor.

5. On face of record it appears that, on 06.09.2024, the learned Sessions Court passed the impugned order and dismissed

Criminal Revision No.21 of 2024 on ground that, the Petitioner repeatedly used the vehicle in question for transporting illegal country liquor. Therefore, if the vehicle in question is released in favour of the Petitioner there is possibility of using the vehicle for committing similar nature of crime. So also, the Petitioner breached the terms and conditions of release of vehicle.

6. The learned counsel for the Petitioner submits that after conclusion of trial, the Petitioner came to be acquitted in Crime No.349 of 2021 registered with Himayatnagar Police Station and as such mother of the petitioner is holding CL-III license to run retail country liquor shop. Therefore, considering nature of offence and use of vehicle in question while committing the crime, by keeping the vehicle idle in the police station premises, no fruitful purpose would be achieved. Therefore, I am of the view that the vehicle in question needs to be released in favour of the Petitioner during pendency of trial in Crime No.126 of 2024 on imposing stringent conditions. Accordingly, I proceed to pass the following order.

ORDER

- (i) Criminal Writ Petition No.1814 of 2024 is hereby allowed. The impugned Order dated 06.09.2024 passed by the learned

Sessions Court in Criminal Revision No.21 of 2024 as well as order dated 08.05.2024 passed by the learned Judicial Magistrate First Class, Himayatnagar are hereby quashed and set aside.

- (ii) The Mahindra company's Bolero vehicle bearing registration No. MH 28 BC 4423 be released on Supurtnama in favour of the Petitioner on execution of bond of Rs.5 lakhs and bank guarantee of Rs.5 lakhs.
- (iii) The Petitioner shall furnish undertaking on non-judicial stamp paper that, hereinafter, he will not use the vehicle No. MH 28 BC 4423 for committing the same nature of crime.
- (iv) The petitioner shall also furnish undertaking that, he will produce the vehicle as and when required by the Court during the course of trial.
- (v) The Petitioner will not transfer the vehicle in favour of any other person without permission of the trial court and he will not change use of said vehicle during the course of the trial.
- (vi) Accordingly rule is made absolute.

[Y. G. KHOBRAGADE, J.]