



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

CRIMINAL WRIT PETITION NO. 753 OF 2025

Rajendra s/o Pandhari Jibhakate
Vs.

State of Maharashtra, Thru. Superintendent of Police, Bhandara and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. T.H. Bewali, Advocate for petitioner.
Mr. A.M. Joshi, APP for respondent Nos.1 & 2/State.

CORAM : M.M. NERLIKAR, J.

DATE : 26.11.2025

Heard the learned counsel for the petitioner
as well as learned APP for respondent Nos.1 & 2/State.

2. The application was filed by the petitioner for releasing his vehicle on Suprutnama as his vehicle was seized by the police in Crime No.56/2025 registered at Police Station Paoni, Bhandara for the offence punishable under Sections 121(1), 132, 221, 3(5), 303(2), 351(2) and Section 49 of the Bhartiya Nyaya Sanhita and Section 7 and 9 of the Environment Protection Act. The said application was reflected by the order dated 10.04.2025 which is challenged before the Court.

3. The learned counsel appearing for the petitioner submits that the vehicle-JCB bearing

registration No.MH-36-AG-7327, Chasis No. HAR3DXS4E03119954, Engine No. H00329431 was seized by the police. He submits that the vehicle was not involved in the crime and in fact, it was taken from the house of the petitioner. He further submits that JCB machine cannot be kept idle, and if the vehicle is kept idle, there is every possibility of damage to the vehicle. He further submits that already six months have passed from the date of seizing of the said JCB machine and he is ready to give Bank Guarantee of Rs.5,00,000/- (Rs. Five Lakhs) before the Trial Court, if this Court releases the JCB machine.

4. On the other hand, the learned APP submits that the said JCB machine was already involved in two similar kind of offences in the past. Crime No.321/2022 was registered for the offence punishable under Section 379, 511, 109 and 48(7)(8) of the Maharashtra Land Revenue Code and Judicial Magistrate First Class, Pauni, vide its order dated 16.01.2023 passed the order of release of said JCB machine on executing indemnity bond of Rs.10 Lakhs.

5. Further, he submits that even the said JCB machine was also involved in Crime No.67/2023 registered for the offence punishable under Section 379 of the Indian Penal Code and by order dated 06.02.2024,

this Court has released the said JCB vehicle on execution of bond of Rs.20,00,000/- (Rs. Twenty Lakhs). Therefore, he submits that there is no improvement in the conduct of the petitioner in using the same JCB machine. It is being used to commit the crimes for loading the sand in the trucks, which are stored illegally or for illegally excavating the sand. Under such conditions, he vehemently opposes the release of the said JCB machine.

6. Upon hearing the learned counsel for the petitioner as well as the learned APP for the respondent Nos.1 & 2/State. It appears from the record that the said vehicle was involved in two crimes at earlier point of time, and the Judicial Magistrate First Class, as well as this Court, has released the said vehicle on certain terms and conditions. Now, again the said vehicle is involved in the present crime. The learned counsel appearing for the petitioner submitted that the petitioner will not use this JCB again for the purpose of excavation of sand, which is either for illegal storing or illegal excavation. He further submits that apart from this, he is ready to furnish bank guarantee of Rs.5,00,000/- (Rs. Five Lakhs) and also submits that, if the vehicle is again used in committing the crime, the said Bank Guarantee may be forfeited.

7. Considering the fact that this is the third crime in which the petitioner's JCB, is involved. However,

keeping the JCB idle will not serve the purpose, and, as was submitted by the learned counsel for the petitioner that he is ready to furnish the bank guarantee, I am inclined to grant the relief, hence, the following order:

ORDER

i) The order dated 10.04.2025 passed by the learned Judicial Magistrate First Class, Court No.2, Pauni is hereby quashed and set aside.

ii) The vehicle JCB India Limited bearing registration No.MH-36-AG-7327, Chasis No. HAR3DXS4E03119954, Engine No.H00329431 shall be released on furnishing bank guarantee of Rs.5,00,000/- (Rs. Five Lakhs) before the Trial Court.

iii) If the vehicle JCB India Limited bearing registration No. MH-36-AG-7327, Chasis No. HAR3DXS4E03119954, Engine No. H00329431 is involved in another crime in future, the bank guarantee would be treated as forfeited and it would not be returned back and the same would be encashed and the amount shall be deposited in the account of Legal Aid at Bhandara.

8. The further conditions are imposed as under :

- i) He shall not part with possession of the JCB in any manner without prior permission of the Trial Court.
- ii) He shall not change description of the JCB.
- iii) He shall produce the JCB before the Trial Court at any time as may be required by the Trial Court.
- iv) The Investigating Officer to take photographs of the JCB machine and to prepare detailed panchnama before releasing the JCB vehicle.
- v) In case, after the conclusion of the trial if it is found that Vehicle JCB India Limited bearing registration No. MH-36-AG-7327, Chasis No. HAR3DXS4E03119954, Engine No. H00329431 is not involved in the crime the Bank Guarantee shall be returned to the petitioner.

9. Accordingly, the petition is allowed in above terms.

(M.M. Nerlikar, J.)