



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

CRIMINAL WRIT PETITION NO. 1011 OF 2024

PETITIONER : Nadeem Khan Mohamad Isakhan,
Aged – 39 Years, Occupation-Business,
R/O– House No 1-13-470 Wasim Kiran,
Peer Burhan Nagar, Nanded,
Maharashtra – 431605,
Aadhar No – 467567141309.

VERSUS

RESPONDENTS: 1. District Collector, Bhandara,
MSEB Colony, Bhandara-441904,
Maharashtra. Ph-07184254777
E-Mail-
collector.bhandara@maharashtra.gov.in

2. Police Station Bhandara,
Through Police Inspector, Bhandara
Bhandara Police Station, Bhandara,
Maharashtra.

Mr. Arjun Raoka Jain, counsel for petitioner.
Mrs. Ritu Sharma, APP for respondent/state.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 28/01/2025

ORAL JUDGMENT :

1. Heard.

2. **Rule.**

3. Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

4. By this petition, the petitioner has limited grievance that vide order impugned dated 16/10/2024, the Collector Bhandara in exercise of powers under Section 6A of the Essential Commodities Act, 1955 directed that the vehicle truck number MH-26-CH7373, be released in favour of the petitioner subject to furnishing the bank grantee in the sum of Rs. 31,70,000/-. The said order is challenged by the present petitioner by preferring an appeal under Section 6-C of the Essential Commodities Act, 1955 before the Sessions Judge, Bhandara. The said appeal stands dismissed and hence this petition.

5. The petitioner submits that the condition is exorbitant and it is highly impossible to fulfill the same being the petitioner is a driver. It is further submitted that, he is deprived of the use of vehicle, since his attachment and the same vehicle is the only

source of the livelihood of the present petitioner. He submitted that condition imposed be modified, and he be permitted to furnish solvent security in stead of the bank grantee and the cash security.

6. In support of his contention, he placed reliance on various orders passed by this Court namely;

- (1) Criminal Writ Petition No. 136/2021 (Mohd. Riyaz Quadir Miya Sheikh Vs Collector, Nagpur and another) decided on 26/02/2021;
- (2) Criminal Writ Petition No. 97/2020 (Shri Mohsin Beg Shabbir beg Vs The Collector, Buldana) decided on 08/09/2020;
- (3) Criminal Writ Petition No.999/2014 (Shri Vikas son of Shri Bhaurao Meshram Vs Collector, Nagpur District and another) decided on 05/12/2014;
- (4) Criminal Writ Petition No. 1000/2014 (Shri Pramod son of Manikrao Thakre Vs Collector, Nagpur District and another) decided on 05/12/2024 and;
- (5) Dinesh s/o Deepakkumar Bhaktani Vs Collector, Nagpur District Collector Office and another [2016 ALL MR (Cri) 4177].

7. The said petition is strongly opposed by the

respondent/State on the ground that the huge stock was seized, when it was transporting in the said truck, and the petitioner was found in possession of the Essential Commodities, which are for the poor strata of the society, but it was transported for the black marketing. Thus, considering the same, the condition was imposed to pay the cash surety as aforestated, and therefore, the petition is devoid of merits and liable to be dismissed.

8. After hearing both sides and on perusal of the various orders passed by this court, it reveals that the legislative intent is not that in every case, the solvent surety or the cash surety must be for the sum of the market price of the vehicle nor is it mandatory that the fine in lieu of confiscation must correspond with the market price. To the contrary, the provision gives ample discretion and the market price is the outer limit and not the minimum threshold.

9. Learned counsel for the petitioner has invited my attention as to the many orders passed by the learned Single Judges of this Court, and the condition of furnishing solvent surety is substituted by the condition that solvent surety be furnished. The orders passed by this Court are referred above.

10. In view of the consistent view of this Court, and in the facts of the case, the petitioner has made out a case for modification of the condition.

11. The impugned order is modified to the extent that instead of payment of the cash surety of Rs. 31,17,000/-

12. Learned counsel for the petitioner submitted that petitioner is ready to deposit the amount of Rs. 8,66,000/- towards the cash surety against the stock, which is seized during the raid and as far as, the vehicle is concerned, he is ready to furnish the bank grantee.

13. The impugned order is modified to the extent that instead of directions to the petitioner to pay the cash surety of Rs. 13,17,000/-, the petitioner shall deposit Rs. 8,66,000/- as a cash surety against the stock, and he shall furnish the solvent surety for the amount of Rs. 5,00,000/-

14. The petitioner is permitted to furnish the solvent surety for the amount of Rs. 5,00,000/- against the truck to the satisfaction of the Collector.

15. Upon furnishing the solvent surety to the satisfaction of the Collector, the Collector shall release the vehicle seized

within 72 hours.

16. Rule is made absolute in the aforestated terms.

[URMILA JOSHI-PHALKE, J.]