



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO.592/2024

1. M/s AU SMALL FINANCE BANK
LIMITED
Formerly Known as
M/s AU. FINANCIERS (INDIA)
LIMITED
Having its registered office at 19A
Dhuleshwar Garneed, Ajmer, Road,
Jaipur 302001 (Rajasthan).

Having its Branch Office at Madhu Malti
Vihar, 1st Floor Necklace Road, Ratanlal
Plot Square, Akola, (Maharashtra)
Through its Authorized Person
Mr. Vijay s/o Ramdas Kamble.

... PETITIONER

...VERSUS...

1. State of Maharashtra
Through Officer In Charge, Police
Station- Washim City, District Washim.
2. Shri Arun Harichandra Rathod
Aged 38 years, Occu. Service,
R/o At Sarkinhi, Post Zodga,
Ta. Barshitakli, Dist Akola.

...RESPONDENTS

Ms Ayushi Dangre, Advocate for petitioner
Shri N.B. Jawade, Advocate for respondent No.1/State

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 10.07.2025

ORAL JUDGMENT

. **RULE.** Rule is made returnable forthwith. Heard finally by consent of the parties.

2. By this Writ Petition, the petitioner is seeking quashing and setting aside the impugned order dated 04.04.2024 in Special Case No.44/2020 below Exhibit 3, by which the application of the present petitioner for grant of permission to sale vehicle bearing registration No.MH- 31/P-3871 is rejected.

3. The vehicle in question was seized in connection with Crime No.421/2018 for the offences punishable under Sections 364A, 387, 324, 327, 294, 506(B), 507, 143, 147, 149, 75 of the Indian Penal Code read with Sections 3, 4, 25 of the Arms Act and Section 135 of the Maharashtra Police Act read with Section 3(1)(ii), 3(4) of the Maharashtra Control of Organized Crime Act (MCOCA). The present petitioner filed an application below Exhibit-3 for seeking permission to sale the vehicle, which came to be rejected as trial was pending.

4. Learned Counsel for petitioner submits that now more than 7 years already have been passed, if the vehicle was kept as it is, it would become worthless. Moreover, the vehicle was hypothecated when the present petitioner which is a financial institute. She further submitted that now trial is already concluded and the accused are acquitted from the said charges. The appeal period is already over. There is nothing to show that the appeal is preferred by the original accused or not. The application was moved for seeking permission to sale the vehicle which was rejected on the ground that in the event of conviction, the vehicle will require to be confiscated and, therefore, till the conclusion of trial, the vehicle cannot be permitted to sale. Now the trial is already concluded and appeal period is also over and, therefore, no purpose would be served by keeping the vehicle otherwise it would become worthless.

5. Learned APP strongly opposed the said petition and submitted that whether the appeal preferred or not that is to be ascertained and, therefore, the Writ Petition is devoid of merit and liable to be dismissed.

6. Having gone through the provisions of Sections 451 and 452 of the Cr.P.C. Section 451 deals with the provision of releasing the vehicle during the pendency of the trial, whereas Section 452 deals with the release of the vehicle or disposal of the property and conclusion of the trial. Section 451 states that when any property is produced before any Criminal Court during an inquiry or trial, the Court may make such order as it thinks fit for the proper consent of such property pending the conclusion of the inquiry or trial, and if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of. Whereas Section 452 states about order for disposal of property at conclusion of trial.

(1) When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have

been committed, or which has been used for the commission of any offence.

2) An order may be made under sub-section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without sureties, to the satisfaction of the Court, engaging to restore such property to the Court if the order made under sub-section (1) is modified or set aside on appeal or revision.

3) A Court of Session may, instead of itself making an order under sub-section (1), direct the property to be delivered to the Chief Judicial Magistrate, who shall thereupon deal with it in the manner provided in Sections 457, 458 and 459 of the Cr.P.C.

7. Now the trial is already concluded by judgment dated 29.03.2025 while passing the operative order, the Special Judge has already passed an order below Clause 7, which is reproduced as under:

“One Maruti Swift Dezire Car bearing registration No. MH- 31/P-3871 is given to M/s AU Small Finance Bank Ltd. on supratnama.

The supratnama will remain enforced when the appeal period is over.”

Now the appeal period is already over. There is no information or no document on record that any appeal is preferred by the State or not. In view of that, the Writ Petition deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- i) The Writ Petition is allowed.
- ii) The order dated 04.04.2024 below exhibit-3 in Special MCOCA Case No.44/2020, is hereby quashed and set aside.
- iii) The application Exhibit-3 moved by the petitioner before the learned trial Court is allowed and permitted to sell the vehicle.

8. Rule is made absolute in the above said terms.

(URMILA JOSHI-PHALKE, J.)

R.S. Sahare