IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1 CRIMINAL WRIT PETITION NO. 994 OF 2026

Shaikh Rafik Shaikh Chand ….Petitioner

VERSUS
The State Of Maharashtra …..Respondent

…..

Mrs. Chincholkar Surekha G., Advocate for the Petitioner
Mrs. A. S. Deshmukh, APP for Respondent State

CORAM : HITEN S. VENEGAVKAR, J.
Dated : 31st October, 2026

PER COURT :-

1. Heard the learned Advocate for the petitioner and learned APP for the Respondent-State.

2. By way of present petition, the petitioner challenges the order dated 16.06.2026 passed by the learned Additional Sessions Judge-1, Prabani, in Criminal Revision Application No. 22 of 2026, thereby confirming the judgment and order passed by the learned Judicial Magistrate First Class, Court No.2, Prbhani in Criminal Misc. Application No. 194 of 2026. The impugned orders passed by the trial Court as well as by the revisional court pertains to rejection of the application of the petitioner for release of vehicle bearing Truck No. MH-40-7102 which, came to be seized in connection Crime No. 174 of 2026 registered with Nanalpeth Police Station for the offences under section 303(2) of the Bhartiya Nyaya Sanhita and Sections 48(7) and

48(8) of the Maharashtra Land Revenue Code.

3. In the application preferred for release of the said vehicle, the applicant/petitioner has categorically stated that he is the owner of the above mentioned truck and the said vehicle came to be seized from his possession in the aforesaid crime. He has stated in the application that, he personally has no connection with the alleged offence and the vehicle was rented to the accused persons who has used it for illegal purpose beyond his knowledge. He submits that the said vehicle is the only earning source for his family. He further submits that the vehicle is a machine, which is likely to get damaged by keeping idle. The machinery of the vehicle will be of no use, if the vehicle is kept idle and standing without operating for a longer period. In the interest of justice, he submits that the vehicle be returned to him. He also undertakes not to rent the said vehicle henceforth to any such persons, who will get involved in any illegal activities and he will take necessary care and precaution for the same.

4. The learned Advocate for the petitioner reiterates the contents of the application and has also tendered the undertaking dated 10.10.2026, which reads as under:

"UNDERTAKING

I, Shaikh Rafik Shaikh Chand, Age: 36 Years, Occu. Owner, R/o Savera Colony, Dhar Road Parbhani Tq. And Dist. Parbhani, do

hereby Omit an undertaking that:-

1) He is the registered and authorized owner of the vehicle bearing Tata Tipper No. 1613, passing No. MH-40 7102, Chassis No. 373135KSZ739461 and Engine No. 697TC56JSZ142793.

2. The petitioner filed Cri. W. P. No.994/2026, for release of his said Vehicle, the petitioner files an undertaking that, he is using the said vehicle on rent basis to earn his livelihood and to support his family.

3) His vehicle was earlier released by the learned Judicial Magistrate First Class Court no. 3 Parbhani in Cri. Misc. Application no. 49/2026 by the judgment and order dt. 03/02/2026.

4) The petitioner submits that, his vehicle is taken in custody on 17/1/2026 by the Nanalpeth Police Station and FIR is registered on 18/03/2026 and his vehicle is lying in the open premises of Nanalpeth Police Station Parbhani and is in custody till today.

5) The petitioner gives an undertaking that henceforth he will not rent or lease his vehicle to any such person who is engaged in illegal sand extraction or for any other illegal purpose. The Copy of order dt. 5/10/2026 passed by this Hon'ble High Court in Cri. W. P. No.994/2026 is annexed herewith.

6) Hence this undertaking verified on this 10th Day of October, 2026 at Parbhani.

5. Perusal of the undertaking shows that the petitioner has undertaken that the vehicle will henceforth not be rented or leased to

any such person who is engaged in illegal sand extraction or for any other illegal purpose. The undertaking is filed on record.

6. The learned APP, however, submits that the vehicle in question was earlier involved in the similar kind of offence and it was seized. At the time of release of the said vehicle, by order dated 03.02.2026, the learned JMFC, Corut No.3 Parbhani had imposed certain conditions of which, one of the conditions was that, the petitioner was directed that he shall not use the said vehicle for the purpose to commit any offence and also not to handover the vehicle to any one who will use the same for the commission of any offence. She submits that inspite of the said order, the vehicle has been given to the accused persons for carrying illegally extracted sand. This being his second offence, the vehicle need not be released.

7. I have perused the order dated 03.02.2026 passed by the learned JMFC, Parbhani below Exh.1 in Criminal Misc. Application No. 49 of 2026, by which, the court had granted release of vehicle in Crime No. 492 of 2025, registered with Parbhani Rural Police Station for offences punishable under Sections 303 (2) read with Section 3(5) of BNS. I have also perused the order passed by the learned JMFC in the present case dated 18.04.2026 and the order passed by the learned revisional court order dated 16.06.2026. The observations made by both, the trial court and the revisional court, are befitted and cannot be

found with any deficiencies or irregularity. In the reasoning, the continuous involvement of the vehicle is the ground on which the application has been turned down. However, taking into consideration the submission that was advanced that the vehicle involved cannot be kept standing or idle without being used on road for a longer period, and likely to damage the entire vehicle, its purpose and use, the said damage will cause irreparable loss to the present petitioner, I, feel that by imposing appropriate cost and also by imposing appropriate conditions, the present application can be allowed. Hence, the following order:

## O R D E R

The Writ Petition is allowed on the following terms:

(i) The vehicle vehicle bearing Truck No. MH-40-7102 involved in Crime No. 174 of 2026 registered with Nanalpeth Police Station, District Parbhani for the offences under section 303(2) of the Bhartiya Nyaya Sanhita and Sections 48(7) and 48(8) of the Maharashtra Land Revenue Code, be handed over to the petitioner on his executing indemnity bond of Rs. 5,00,000/- (Rupees Five lakhs), till conclusion of the trial.

(ii) The petitioner to undertake that he shall not sale or transfer the above mentioned vehicle without prior permission of the trial court.

(iii) The petitioner to preserve and maintain the vehicle in all respects and shall not hire the same for illegal purpose.

(iv) The petitioner shall produce the vehicle in the trial court as well as before the Investigating Officer as and when required.

(v) The investigating officer is hereby directed to prepare a detailed panchanama of the seized vehicle and to take at least 4 coloured photographs from each sides of the said vehicle and certified copies of the said photographs be kept alongwith the original case papers.

(vi) The petitioner is directed not to use the said vehicle for the purpose to commit any offence and also not to handover the same to any one who will use the same for commission of any offence.

(vii) The concerned Investigating Officer is also directed to release the vehicle alone and not any illegal material which was seized alongwith the said vehicle.

(viii) The petitioner is directed to place on record the copies of all the relevant documents of the seized vehicle before the concerned Investigating Officer, demonstrating ownership of the said vehicle.

(ix) The present order shall be without prejudice to the powers of the Executive Magistrate to proceed pursuant to the provisions of Section 48 of the MLRC.

(x) If any one else apart from the petitioner has any right over the ownership of the said vehicle, then the petitioner will be responsible for the consequences arising out of it.

(xi) The vehicle shall be released to the petitioner upon payment of cost of Rs.50,000/- (Rupees Fifty Thousand only), which shall be deposited with the Chief Minister's Relief Fund within a period of four weeks from today.

The details of the bank account for depositing the said amount are as under:

Chief Minister's Relief Fund

- Savings Account No.: 10972433751
- Bank: State Bank of India
- Branch: Mumbai Main Branch, Fort, Mumbai – 400001
- Branch Code: 00300
- IFSC Code: SBIN0000300

(xii) After the receipt of deposit of cost is produced before the Investigating Officer, the Investigating Officer to release the aforesaid vehicle to the petitioner by making an appropriate report of the same, which should include the number of receipt and the payment made by the petitioner.

**(HITEN S. VENEGAVKAR, J.)**

JPChavan