



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

CRIMINAL WRIT PETITION NO. 1747 OF 2025

**KAILASH VALJANATH SAKHARE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER.**

...
Mrs. S.G. Chincholkar, Advocate for the petitioner.
Mr. D.J. Patil, APP for respondent No.1.
Mr. V.C, Solshe, Advocate for respondent No.2/original accused.

CORAM : MEHROZ K. PATHAN, J.

DATE : 9th APRIL, 2026.

P.C. :-

1. The petition is filed by the owner of the vehicle thereby challenging the order dated 28.7.2025 passed by the learned Chief Judicial Magistrate, Parbhani, thereby rejecting the application filed by the petitioner for release of the vehicle bearing No. MH-40/BL/2450 seized in Crime No.702 of 2024, registered with Police Station Nanal Peth, Parbhani, on Supratnama under Section 497 of the BNSS.
2. The petitioner is also challenging the order passed by the Revisional Court in Criminal Revision Application No. 54 of 2025 dated 27.10.2025 whereby the revision filed by the petitioner came to be rejected.
3. Perusal of the orders passed by both the Courts below would show that the application for release of the vehicle filed by the petitioner came to be rejected only on the ground that the earlier application filed by the subsequent purchaser of the vehicle i.e. Mr. Mitesh Shinde, came to be allowed when the said vehicle was seized in Crime No.170 of 2024, registered with Tadkalas Police Station, on the condition that the owner

Mitesh Shinde shall not use the said vehicle to commit any identical offence. Since the said condition was violated the application filed by the original owner i.e. the petitioner, came to be rejected.

4. It is the submission of the learned counsel for the petitioner that since the subsequent purchaser Mitesh Shinde misused the vehicle transferred in his name, the petitioner – original owner has cancelled the sale agreement vide Cancellation Deed dated 30.4.2025. The vehicle was only transferred on paper in the name of Mitesh Shinde, however, the vehicle still stands in the name of the petitioner and as such, the violation if any committed by Mitesh Shinde can not be used as a punishment for the petitioner and the petitioner can not be denied the possession of the said vehicle during the pendency of the trial.

5. The petitioner has further relied upon the judgment of the Supreme Court in the matter of ***Sunderbhai Ambalal Desai Vs. State of Gujarat (2002) 10 SCC 283*** wherein the Honourable Supreme Court has observed as under :-

“The powers as conferred under Section 451 and 457 of Cr.P.C. should be exercised expeditiously and judiciously. It would serve various purposes, namely :-

I] The owner of the article would not suffer because of its remaining unused

II] court or the police would not be required to keep the article in custody.

III] If the proper panchanama before handing over possession of article is prepared that can be used in evidence instead of its production before the court during the trial”

6. The petitioner further submits that the petitioner is not having any criminal antecedents. The petitioner is also not an accused in the said crime. Relying upon the judgment in the matter of ***Bisvajit Dey***

vs. The State of Assam (2025) 3 SCC 241 the petitioner can be allowed to have custody of the vehicle as the petitioner has not accused in the said crime and is ready to abide by the conditions including the condition of producing the vehicle as and when asked for, by the trial court. The learned counsel for the petitioner further submits that the petitioner is ready to show his bonafides by depositing some amount, with the trial court as a Surety, for allaying the apprehension of the trial court that the vehicle may be again misused or used for committing a crime and would not be produced before the trial Court. Since the petitioner is ready to show his bonafides the petition may be allowed, the impugned orders be quashed and set aside and the petitioner may be handed over custody of the vehicle.

7. Learned APP strongly opposes the present petition on the ground that custody of the vehicle was denied to the petitioner on the ground that the subsequent purchaser Mitesh Shinde had earlier filed an application for release of the vehicle as the vehicle was found to be involved in the Crime No. 170 of 2024, registered with police Station Tadkalas Dist. Parbhani.

8. When the vehicle was released in favour of Mitesh Shinde, a condition was imposed that the petitioner would not commit any identical offence by use of the said vehicle. The vehicle is found to be involved in another crime of sand theft which is Crime No. 702 of 2025 registered at Nanalpeth and hence, there is violation of condition imposed by the trial court. Both the courts below have rightly rejected the application filed by the petitioner herein.

9. The learned APP submits that the petitioner has cancelled the agreement to sale with Mitesh Shinde is an eye wash, as there is every likelihood that the petitioner may again use the said vehicle for

committing an identical offence of sand theft.

10. Shri V.S. Solshe, Advocate appears for the complainant and prays for passing appropriate orders in favour of the petitioner.

11. Be that as it may, since the petitioner is ready to show his bonafides by depositing an amount of Rs. 1,50,000/- towards surety for release of the vehicle, without going into the merits of the impugned orders, I am inclined to grant custody of the vehicle to the petitioner on a condition of depositing Rs. 1,50,000/- before the trial court within a period of two weeks. Hence, the following order:-

ORDER

[i] The impugned judgment and order dated 27.10.2025 passed by the learned Additional Sessions Judge -1 Parbhani in Criminal Revision Application No.54 of 2025 arising out of the judgment and order dated 28.7.2025 in RCC No. 179 of 2025 passed by the learned Chief Judicial Magistrate, Parbhani are hereby quashed and set aside ;

[ii] The vehicle i.e. Tata Tipper bearing registration No. MH-40/BL-2450 Chasis No. MAT 388128D1B01855 and Engine No., B591303331B63311511 seized in Crime No., 170 of 2024 by police Station, Tadkalas, be handed over to the petitioner subject to petitioner depositing an amount of Rs. 1,50,000/- before the trial court.

[iii] The petitioner shall give an undertaking that he shall not sell or transfer above mentioned vehicle without prior permission of the Court.

[iv] The petitioner shall preserve and maintain the vehicle in all respects and shall not use the same for illegal purposes.

[v] The petitioner shall produce the vehicle in the Court as well as before the Investigating Officer as and when required.

[vi] The petitioner is directed not use the said vehicle for the purpose of committing any offence and also not to hand over the same to anyone who will use the same for the commission of any offence.

[vii] The applicant is directed to place all the relevant documents of the said seized Tipper before the concerned investigating officer.

[viii] The petitioner shall not create any third party interest in the vehicle.

[ix] The applicant shall bring the vehicle for inspection to the concerned police Station – Nanalpeth, once in two months starting from 1st May, 2026.

[x] The Police Station Officer shall maintain station diary of visit of vehicle to the police station for perusal of the trial Court.

12. The criminal writ petition stands disposed of in above terms.

[MEHROZ K. PATHAN]
JUDGE.

grt/-