



; have been carried out in view of speaking to minutes to order dated 09.06.2026)

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

CRIMINAL WRIT PETITION NO. 302 OF 2026

Tanvir Kadir Shaikh,
Age-43 years, Occu: Business,
R/o. New Nagar Road,
Dilli Naka, Nataki Road,
Dist. Ahmednagar.

...Petitioner

VERSUS

1. The State of Maharashtra
Through its -The Principal Secretary,
The Home Department, Mumbai.
2. The Police Inspector,
Sangamner City Police Station, Sangamner,
Tq. Sangamner, Dist. Ahilyanagar.
3. The Sub-Divisional Officer,
Sangamner Office, Sangamner,
Tal. Sangamner, Dist. Ahmednagar,
4. The Tahsildar & Executive Magistrate,
Tahsil Office, Sangamner,
Tq. Sangamner,
Dist. Ahmednagar

...Respondents

Advocate for Petitioner : Mr. K.N. Shermale
APP for Respondent/State : Mr.N.B. Patil

**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

DATE : 02.04.2026

JUDGMENT : (PER : ABASAHEB D. SHINDE, J.)

. Heard. Rule. Rule is made returnable forthwith. With the consent of the parties, heard both the sides finally at the admission stage.

2. The petitioner has approached this Court by invoking the jurisdiction under Article 226 of the Constitution of India and has put forth the following prayers :

“A) This Criminal Writ Petition may kindly be allowed.

B) The Rule may kindly be made absolute by allowing this writ petition, thereby directing to the respondents to handover the excavator i.e. Hyundai Excavator Machine Sr No. N604D00251, Engine No. 6H.2606/1720016 (Pokland) of the petitioner pursuant to the order dated 06.02.2026 passed by the Learned Judicial Magistrate, First Class Sangamner in Criminal Misc. Application No. 62 of 2026 and for that purpose issue necessary orders.

C) Pending hearing and final disposal of this writ petition, the direction may kindly be issued to the respondents to release excavator i.e. Hyundai Excavator Machine Sr No. N604D00251, Engine No. 6H.2606/1720016 (Pokland) of the petitioner forthwith.

D) Ad-interim relief in terms of prayer clause "C" may kindly be granted in favor of petitioner.”

FACTUAL MATRIX :

3. The petitioner before us is an owner of Hyundai Excavator Machine bearing Sr. No. No. N604D00251, Engine No. 6H.2606/1720016 (Pokland) (hereinafter referred in short ‘the said vehicle’). It is the case of the petitioner that he has

purchased the said vehicle after borrowing loan from the private finance company by mortgaging the said vehicle. It is further contended that it is the only source of his livelihood. Since, the work of '*Gharkul Yojana*' of *Gram Panchayat, Kuran* was to be carried out under the government policy and for the construction of said houses, sand was required, the villagers from the said village agreed for excavation of sand from the river bed of Pravara river.

4. It is further contended by the petitioner that on 18.01.2026, when the work of excavation of the sand was going on, the Circle Officer did not only object to the said excavation but even lodged the FIR against the petitioner alleging that the petitioner has committed an offence under Sections 303(2) and 221 of *Bhartiya Nyaya Sanhita, 2023* (hereinafter referred in short '*BNS,2023*') as well as Sections 3 and 15 of the *Environment Protection Act, 1986* by illegally excavating the sand to the extent of 100 to 125 Brass.

5. It is further case of the petitioner that pursuant to the FIR bearing Crime No.65 of 2026 registered with Sangamner Police Station, the said vehicle came to be seized by the police authorities on the same day. The petitioner therefore, filed an application before the learned Judicial Magistrate First Class, Sangamner (hereinafter referred in short '*learned JMFC*') under Section 503 of '*Bhartiya Nagrik Suraksha Sanhita, 2023*' (hereinafter referred in short, '*the BNSS, 2023*') bearing Criminal Misc. Application No.62 of 2026 seeking

release of the said vehicle. The learned JMFC vide order dated 06.02.2026 allowed the said application thereby, directing the police authorities to handover the possession of the said vehicle to the petitioner till the conclusion of trial on petitioner's executing the indemnity bond of Rs.50 lacs as well as by imposing certain conditions.

6. The petitioner contends that despite there being an order passed by learned JMFC dated 06.02.2026, the respondents are not releasing the said vehicle and therefore, the petitioner is before this Court.

SUBMISSIONS:-

7. Learned counsel for the petitioner submits that pursuant to the FIR lodged against the petitioner, the said vehicle has been seized by the police authorities. He would further submit that the petitioner was constrained to file an application before the learned JMFC under Section 503 of BNSS 2023 seeking release of the said vehicle and accordingly, the learned JMFC vide order dated 06.02.2026 directed the said vehicle to be handed over to the petitioner. He would therefore, submit that, despite there being an order of learned JMFC dated 06.02.2026 thereby directing to release the said vehicle, the respondent/authorities are not handing over possession of the said vehicle to the petitioner, as a result of which the only source of his livelihood has been taken away.

8. Learned counsel for the petitioner further submits that in the light of order passed by competent Criminal Court

directing handing over of the said vehicle, even though the revenue authorities are empowered to impose penalty for excavation of sand under Section 48(7) of the Maharashtra Land Revenue Code, 1966 (hereinafter referred in short 'the MLR Code,1966'), however, if at all the vehicle involved in excavation of the sand is to be seized, the revenue authorities have to resort to the provisions of Section 48(8)(1) and (2) of MLR Code.

9. According to learned counsel for the petitioner, the respondent/authorities have not followed the said procedure prescribed and therefore, the action of the respondent/authorities is *per se* illegal.

10. Learned counsel for the petitioner relied on the judgment of this Court in the case of ***Prajwal Vittalrao Aambhore vs. The State of Maharashtra and Others*** decided on 21.06.2024 in **Criminal Writ Petition No. 432 of 2024**. Relying on the observations in the said case, he would submit that once the competent Criminal Court directs the authorities to handover the possession of the vehicle/machine irrespective of whether the revenue authorities have resorted to the provisions of Section 48 of MLR Code, the authorities should handover the possession of vehicle by imposing certain conditions. He therefore, urge that in the light of this legal position, the Writ Petition deserves to be allowed.

11. *Per contra*, learned APP would submit that the petitioner

was found while excavating the sand illegally as a result of which the concerned Circle Officer has lodged the FIR against the petitioner. He would further submit that not only the FIR has been lodged but the respondent No.3/Sub-Divisional Officer, Sangamner has also levied the penalty of Rs.7.5 lacs against the petitioner for illegal excavation.

12. Learned APP further submit that irrespective of whether there is an order passed by the learned JMFC, the respondent/ authorities have power to resort to the provisions of Section 48(7) and sub-section (8) of MLR Code and seize the vehicle. He would therefore, submit that in the light of seizure of the said vehicle by the respondent/authorities, the petitioner should avail the remedy under Section 247 of MLR Code by filing an appeal before the Appellate Authority. He therefore, urged that the Writ Petition deserves to be dismissed.

CONSIDERATION :-

13. Having considered the rival submissions advanced on behalf of the learned counsel for the petitioner as well as learned APP, we find that pursuant to the FIR lodged against the petitioner, the police officers have seized the said vehicle of the petitioner. It is also an admitted fact that pursuant to an application filed by the petitioner under Section 503 of BNSS, 2023, the learned JMFC vide order dated 06.02.2026 has directed to handover the possession of the said vehicle to the petitioner. It is also an admitted fact that the respondent No.3/Sub-Divisional Officer has imposed penalty of Rs.7.5 lacs on petitioner by resorting to the provisions of Section 48(7) of

the MLR Code. As per the contention of the respondent/ authorities, they have seized the said vehicle by resorting to the provisions of Section 47(8) sub-section (1) and (2) of MLR Code.

14. For better appreciation, we reproduce the relevant provisions of Section 48 sub-sections (7) and (8) which reads thus :

“48. Government title to mines and minerals:

(1)

(2)

(3)

(4)

(5)

(6)

(7) Any person who without lawful authority extracts, removes, collect, replaces, picks up or disposes of any mineral from working or derelict mines, quarries, old dumps, fields, bandhas (whether on the plea of repairing or constructions of bund of the fields or an any other plea), nallas, creeks, river beds, or such other places wherever situate, the right to which vests in, and has not been assigned by the State Government, shall, without prejudice to any other mode of action that may be taken against him, be liable, on the order in writing of the Collector, or any revenue officer not below the rank of Tahsildar authorised market value of the minerals so extracted, removed, collected, replaced, picked up by the collector in this behalf to pay penalty on of an amount [upto five times] the market value of the minerals so extracted, removed, collected, replaced, picked up or disposed of, as the case may be.

[(8) (1) Without prejudice to the provision of sub-section (7), the Collector or any revenue officer authorised by the Collector in this behalf, may seize and confiscate any mineral extracted, removed,

collected, replaced, picked up or disposed of from any mine, quarry or other place referred to in sub-section (7), the right to which vests in, and has not been assigned by the State Government, and may also seize and confiscate any machinery and equipment used for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals and any means of transport deployed to transport the same.

(2) Such machinery or equipment or means of transport, used for unauthorized extraction, removal, collection, replacement, picking up or disposal of minor minerals or transportation thereof, which is seized under sub-section (1), shall be produced before the Collector or such other officer not below the rank of Deputy Collector authorised by the Collector in this behalf, within a period of forty-eight hours of such seizure, who may release such seized machinery, equipment or means of transport on payment by the owner thereof of such penalty as may be prescribed and also on furnishing personal bond of an amount not exceeding the market value of or the seized machinery, equipment or means of transport, stating therein that such seized machinery, equipment or means of transport shall not be used in future for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals and transportation of the same.]”

15. The above provision of Section 48 sub-section (7) and (8)(1) and (2) of the MLR Code makes is abundantly clear that the revenue authorities are empowered to impose penalty on a person for illegal excavation of sand similarly, Section 48(8) (1) of MLR Code prescribes the procedure for seizure of the vehicle involved in alleged illegal excavation. Likewise, provision of Section 48(8)(2) of the MLR Code deals with a procedure for release of a seized vehicle. The said provision contemplates production of seized vehicle before the Deputy Collector within a period of 48 hours. Upon such production of the seized vehicle, the Deputy Collector is empowered to

release the said vehicle on payment of penalty and also by executing a bond not exceeding the market value of the seized vehicle.

CONCLUSION:-

16. We thus find that in the present case, the procedure prescribed under Section 48(8)(1) and (2) has not at all been adhered to as except bare words there is nothing on record to show the respondent/Authorities have complied with the said procedure. On the contrary, the respondents are relying merely on the averments in the FIR to contend that the respondents have seized the said vehicle on the very same day of lodging of FIR. We therefore, are of the view that the same is not in consonance with Section 48(1) and (2) of the MLR Code.

17. We find that when a statute requires certain things to be done in a particular manner, the same is required to be done in that manner alone and not otherwise. In that regard, it would be apposite to rely on the judgment of the Hon'ble Apex Court in the case of ***Babaji Kondaji Garad and Ors. vs. Nasik Merchants Co-operative Bank Ltd. Nasik and Ors.*** reported in **AIR 1994 SC 192** and more particularly paragraph No.13 which reads thus :

“13. When statute requires a certain thing to be done in a certain manner, it can be done in that manner alone unless a contrary indication is to be found in the statute.....”

18. Similarly, it would also be apt to rely on the judgment of the Hon'ble Apex Court in the case of ***Chandra Kishor Jha***

vs. Mahavir Prasad and Ors. reported in **AIR 1999 SC 3558** wherein, the Hon'ble Apex Court in paragraph No. 13 of the said judgment has observed thus :

“13..... It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner.....

19. We therefore, find that the action of respondents in retaining the said vehicle without complying with the statutory provision of Section 48 (8) (1) and (2) of MLR Code despite there being an order passed by the learned Judicial Magistrate First Class for handing over possession of the said vehicle is erroneous and therefore, we are inclined to exercise our jurisdiction under Article 226 of the Constitution of India.

20. Even otherwise the Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai and others vs. State of Gujarat** reported in AIR (2002) 10 SCC 283 has reiterated that the vehicle should not be kept idle in the premises of the police station and an arrangement is required to be made till the remedy of the appeal is exhausted by the petitioner. We therefore, are of the view that the said vehicle of the petitioner cannot be allowed to remain idle.

21. Before parting, we deem it appropriate to put the petitioner to certain conditions for directing the respondents to release the said vehicle. In the judgment relied upon by the petitioner in the case of **Prajwal Vittalrao Aambhore (supra)**, this Court while directing the release of vehicle involved in the said case have directed the petitioner therein

to deposit Rs.1.00 lakh as against the penalty of Rs.2.00 lacs imposed on the said petitioner. In the present case, admittedly, the penalty of Rs.7.5 lacs has been imposed on the petitioner under Section 48(7) of the MLR Code we therefore, deem it appropriate to direct the petitioner to deposit Rs.3.5 lacs (Rupees Three Lacs Fifty Thousand Only) with the respondent No.3/Sub-Divisional Officer, Sangamner District Ahmednagar within a period of four weeks from today which will be a condition precedent for release of the said vehicle of the petitioner.

22. We also make it clear that the amount so deposited by the petitioner shall be considered by the Appellate Authority in case the petitioner prefers an appeal challenging imposition of penalty and would be subject to outcome of the said appeal. If the petitioner chooses not to file an appeal against imposition of penalty, in that case, the respondents would be at liberty to take out appropriate proceedings for recovery of remaining amount of penalty.

23. The Writ Petition is therefore, allowed in terms of prayer clause 'B'. Rule is thus, made absolute in above terms with no order as to costs.

(ABASAHEB D. SHINDE, J.)

(SANDIPKUMAR C. MORE , J.)

V.S.Joshi