



ORDER BELOW EXH.1

This application is filed under Section 503 of the Bharatiya Nagarik Suraksha Sanhita, 2023 by applicants for release the consumer two Bharat Gas Cylinders having consumer No.116675643 and SB NO.4126939959 and 4128629767 of applicant No.1, two Bharat Gas cylinders having consumer No.16635 and SB No.3012157217, 4128659789 of applicant No.2, two Bharat Gas cylinders having consumer No.114434033 and SB No.4123943230 and 4128630184 of applicant No.3, two gas cylinders of HP gas having consumer No.528457 and SB No.1023615 of applicant No.4.

2. It is submitted by the applicant that, the aforesaid gas Cylinders were used for day to day domestic purpose of the applicants. The said cylinders have been seized by the police in connection of present crime. They are kept in lying condition it will cause damage. Due to seizer of the said gas cylinders the livelihood of the applicants is came in danger. Therefore, requested to release the aforesaid cylinders in favour of applicants. They are ready to abide every condition impose by the court. Thus, requested to allow the application.

3. The say of Investigating Officer and Ld. A.P.P. were called. I.O. has filed his say below Exh.6 and submitted that, the aforesaid gas cylinders were found refiling gas in the auto rickshaw.

Accordingly, they have been seized by the concerned police. If they were released the applicants will not cooperate the investigation. They may involve themselves in like offence again. Therefore, requested to reject the application.

4. The Ld. APP has submitted that, by seizing the said gas cylinder the action under Essential Commodities Act has been taken. The District Collector is having power to release the said article. Therefore, requested to reject the application.

5. Heard both the sides. The offences punishable under Section 125, 287, 288 of the Bhartiya Nyaya Sanhita, 2023 and Section 3 and 7 of Essential Commodities Act, have been leveled. Admittedly, the aforesaid gas cylinders seized by the concerned police. The Ld. APP has challenged the application on the ground that, the powers to release the said gas cylinders lies with the Ld. District Collector as seized articles are essential commodities as per provisions of Essential Commodities Act. Section 6(A) of the Essential Commodities Act, provides for confiscation of essential commodities. It provides that, where any essential commodity is seized in pursuance of order made under Section 3. Report of such seizure shall without unreasonable delay, be made to the Collector of District and it further provides the procedure of confiscation. As per section 6(E) of the said Act the jurisdiction of the court is barred to deliver, disposal, release or distribution of such essential commodities in case of pending confiscation under Section 6(A). The Ld. Advocate for applicant has submitted that, in the case in hand the confiscation proceeding has not been initiated neither it has not been intimated to

the Ld. Collector as per Section 6(A) of the Act. Therefore, this court is having jurisdiction to deal it the present application. In support of his submissions, he has relied upon the judgment in case of **State of Maharashtra Vs. Manishkumar S/o. Babulal Biyani**, reported in 1998 All MR (Cri.) 89 wherein, the Hon'ble Bombay High Court has ruled that, cylinders seized by the police confiscation proceeding not pending before the collector of State Government. The Criminal Court is not barred from exercising jurisdiction under Section 457 r.w. Section 451 of Cr.P.C.

6. It is gathered from said rulings that, if there is no confiscation is pending under Section 6(A) before the collector and/or under Section 6(E) before the State Government, then the court or tribunal or any other authority can have jurisdiction to make orders with regard to the possession, delivery, disposal, release or distribution of such essential commodities. The jurisdiction of the court stands outstead only if there is a confiscation proceeding pending before the collector or the State Government.

7. In the case in hand, it is not transpires from the say of investigating officer that, any confiscation proceeding is pending before the Ld. Collector or the State Government therefore, this court is not outstead with jurisdiction to deal with the present application. The Applicants have filed the verified copy of their gas consumer book which shows that, they are owner of the said seized articles. Except the applicants no one has claimed its custody. In such circumstances, no purpose would be served by keeping the said articles at police station for uncertain period. Thus, I am inclined to

release the said cylinders in the interim custody of applicants by imposing certain conditions;

-: ORDER :-

1. The application is allowed.
2. The consumer two Bharat Gas Cylinders having consumer No.116675643 and SB NO.4126939959 and 4128629767 of applicant No.1, two Bharat Gas cylinders having consumer No.16635 and SB No.3012157217, 4128659789 of applicant No.2, two Bharat Gas cylinders having consumer No.114434033 and SB No. 4123943230 and 4128630184 of applicant No.3, two gas cylinders of HP gas having consumer No.528457 and SB No.1023615 of applicant No.4 seized by Shrirampur City Police Station, Shrirampur, in connection with Cri.R.No.51/2026, be given in the interim custody of the applicant No.1 to 4 on furnishing indemnity bond of Rs.20,000/- (Rupees Twenty thousand only) each upon following imposed conditions;
 - i. The applicants are directed to produce the said articles before the Court as and when required at the time of trial.
 - ii. Applicants shall not sale or create any third party interest in the said articles or make any change in the nature of ornaments by any mode.
 - iii. The I.O. is directed to take separate photograph of the said articles at the cost of applicant, prepare separate panchnama in that regard and it should be filed along with final report.

iv. Supurtnama be furnished before the Investigating Officer.

3. Inform investigating officer accordingly.

Place : Shrirampur
Date : 13/04/2026.

(Ankush S. Kambale)
Judicial Magistrate First Class,
Court No.2, Shrirampur.