



Criminal M.A. No.74/2026

Vikas Shinde

Vs.

State (PSO Shevgaon)

MHAH190004852026

ORDER BELOW EXH.NO.01.

01. This is an application filed by applicant Shri. Vikas Uttam Shinde, R/o Sonvahir, Tq. Shevgaon, Dist. Ahmednagar, seeking for release of vehicle Tata company Tipper (ढंपर) 1632 bearing Registration No. MH-13-AX-4872.

02. It is contended by the applicant that the said tipper is seized by Shevgaon Police Station in Crime No.111/2026. It is further submitted that said vehicle is his source of earning. As it is seized, applicant is sustaining financial loss. So also, said vehicle is standing stationery in the premises of the police station. It may cause damage to the vehicle and it's tyres. The applicant further contended that he is ready to comply with any conditions that may be imposed by the Court if the said vehicle released to him on Supurtnama. Hence, the applicant has prayed that the present application be allowed and the seized vehicle be handed over to him on Supurtnama.

03. The applicant has filed the following documents:- an affidavit of the applicant, a verified copy of the vehicle Registration Certificate (R.C. Book), a verified copy of the applicant's Aadhar Card, and certified copy of F.I.R. in Crime No.111/2026 of Police Station, Shevgaon.

04. On the present application, Police Station Shevgaon has submitted its say at Exhibit No.09, wherein it is contended that accused/applicant is found transporting the sand illegally without permit in the white Dhumper not having the registration number.

Therefore, said Dhumber is seized. If said vehicle released to the applicant, there is possibility of using it again for committing a similar offence. It is also stated that correspondence has been made with the Tahsildar in this regard for further action.

05. The learned A.P.P. has submitted his say stating therein that the said vehicle has been seized for the purpose of investigation and that the offence in question is of a serious nature, involving unauthorized transportation of government sand. The said vehicle is material evidence in the offence. If the vehicle is released into the custody of the applicant, there is possibility of tampering the evidence and commission of similar type of offence. Hence, prayed to reject the application.

06 Say is called of Tahsildar, Shevgaon. He submitted say contending that as per letter received from the Police Station for taking custody of seized vehicle for further action under Sec. 48 (7) and (8) of the Maharashtra Land Revenue Code, they have taken custody of said vehicle. So also, notice issued to the applicant for initiating proceeding for recovery of penalty and order is also passed on dated 11.03.2026 for payment of penalty of Rs.1,22,640/- as the explanation to notice given by the owner and driver of the sized vehicle was not satisfactory. Therefore, he prayed to reject the application.

07. Heard Ld. Advocate for the applicant Shri. L.H. Lande and Ld. A. P.P.. Gone through the record of the case.

08. On perusal of copy of R.C. book, it reveals that applicant is owner of the seized vehicle. so also, from the F.I.R. copy it reveals that said vehicle is sized in crime No.111/2026 for transporting sand without permit. However, from the say of the Police and Tahsildar it reveals that said vehicle is handed over in the custody of the Tahsildar on dtd. 06/03/2026 vide letter No.161/2026 dtd. 06/03/2026. Said letter is

filed by the Tahsildar along with his say which supports contentions of Police and Tahsildar.

09. So also, copy of notice issued by Tahsildar to the applicant Vikas Shinde for initiating proceeding for recovery penalty of Rs.1,22,640/- is also filed on record. From said notice, it reveals that Tahsildar has issued said notice calling explanation from the applicant as to why proceeding for recovery of penalty should not be initiated against him under Section 48 (7) and (8) of the Maharashtra Land Revenue Code. So also, copy of order passed by the Tahsildar, Shevgaon dtd, 11.03.2026, is also filed along with say of Tahsildar. From said order, it reveals that on finding the explanation given by applicant to the notice, to be unsatisfactory, Tahsildar has passed order for depositing the penalty of Rs.1,22,640/- to the Government against applicant.

10. Section 48 (7) and (8) of Maharashtra Land Revenue Code read thus-

“(7) Any person who without lawful authority extracts, removes, collects, 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 any other plea), nallas, creeks, riverbeds, 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 by the collector in this behalf, to pay penalty 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 not below the rank of Tahsildar 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 used for unauthorised 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 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.”

11. Thus from copy of notice and order passed by Tahsildar as discussed above, it reveals that proceeding for recovery of penalty under Section 48 (7) of the the Maharashtra Land Revenue Code has been initiated by the Tahsildar against the applicant. Therefore, in view of Section 48 (8) (2) of the Maharashtra Land Revenue Code, the jurisdiction of release of vehicle in the custody of revenue authority is to Collector.

12. Tahsildar, Shevgaon has in support of his say, filed case law of **Ashok Narayan Deshmukh Vs. State of Maharashtra in Criminal Writ Petition No.333/2023**, of the Hon'ble Bombay High Court, Bench at Nagpur, wherein it is held by the Hon'ble High Court that “*the*

provisions under Section 451, 457 of the Code and the provisions under the MLR Code operate independently and, therefore, there is no bar to the revenue authorities to proceed with the proceeding under the MLR Code, rather, they are bound to do so but strictly in accordance with the provisions of the MIR Code and any other law for the time being in force. The revenue authorities are thus at liberty to proceed with the proceedings under the MLR Code, in accordance with law.”

As per observations in above case law, revenue authority is not barred to proceed with proceeding under the Maharashtra Land Revenue Code. In the instant case Tahsildar has initiated proceedings under Maharashtra Land Revenue Code. Hence, this Court is not proper forum to release the vehicle which is in the custody of the Tahsildar.

13. Learned Advocate for the applicant relied on case - **Basudev Agrawal Vs. State of Maharashtra in Cri. Writ Petition No.702/2017, Bombay High Court, Bench Aurangabad**, wherein it is held that *“We find that in the present case, the Tahsildar, Naib Tahsildar and Circle Officer have many a times exceeded their jurisdiction while effecting the seizures and passing orders of imposition of penalty and detaining the vehicle without following the provisions of Section 48 (7) and 48 (8) of the MLR Code. When these provisions are not followed and when F.I.R. is registered without intimation that the seizure was made under Section 48 (7) and 48 (8) of the MLR Code and not under Section 379 of Indian Penal Code, the powers of Judicial Magistrate, First Class under Sections 451, 452, 457 of Cr.P.C. are not taken away to pass appropriate orders for interim custody, as no person can be left remediless.”*

14. In the case in hand F.I.R. is registered for the offence under Section 303 (2) of the BNS, 2023 (379 of the IPC) and intimation is

given by Investigating Officer to the Tahsildar about seizure of vehicle. Hence, it is respectfully submitted that above observation is not applicable to instant case.

15. Considering above discussed facts and circumstances, instant application deserves to be rejected. Hence, the order :-

ORDER

Application stands rejected.

Date : 27/03/2026

(Vaishali S. More)
Judicial Magistrate First Class,
(Court No.2), Shevgaon.

CERTIFICATE

I affirm that the contents of this PDF file Order/judgment are same word for word as per original judgment.

Name of Court	:- V. S. More, Jt. Civil Judge Jr. Div., & Judicial Magistrate F.C., Shevgaon.
Name of Steno	:- S. B. Pisal, Stenographer G-3
Date of Decision Order	:- 27/03/2026
Signed by Presiding Officer on	:- 01/04/2026
Judgment upload on	:- 01/04/2026