

MHKO130004942026	<u>ORDER BELOW EXH. 01 IN</u> <u>Cri.M.A.No. 55/2026</u>
	M/s. Varad Packaging Through Snadip Annappa Thikane Vs. State of Maharashtra Th. Excise Dept. Kagal

The present application is filed u/s. 457 & 503 of the Bhartiya Nagarik Suraksha Sanhita, 2023 by applicant– **M/s. Varad Packaging Through Snadip Annappa Thikane** for possession of property i.e. alleged machinery 1) Rotary Auto Sheet Cutter with Heavy Duty 01 Creas Box Counter Delivery Conveyor Belt (Inner Box with 2 HP Motor Complete 54”) of Rs. 4,50,000/- 2) Heavy Duty 4 Bar Rotary Creasing & Cutting Machine with 1 set of Creasing Heads, 4 sets of Cutting Heads with 2HP Motor Complete Size-85” of Rs. 4,50,000/- 3) Heavy Duty Eccentric Slotter with 3 Slotting Heads 1 corner Head Slot depth 18” With Motor Complete size-85” of Rs. 4,50,000/- 4) Heavy Duty Oblique Type High Speed Single Facer Paper Corrugating M/c. with one Set of M Flute Rollers Fitted on Roller Bearing One Pre Heater 3 Heaters with Motor Complete 52” of Rs.15,80,000/-, 5) Hydraulic Self Loading Reel Stand with Standard Accessories For 52”, of Rs. 5,00,000/- 6) AC Drive Panel And Shetter for corrugation Machine and Sheet Cutter for 52” of Rs. 2,15,000/-, 7) Heavy Duty Sheet Pasting Machine with 1 HP Motor Complete 85” of Rs. 2, 25,000/- which is seized by the I.O. in C.R. No. 08/2026 for the offences punishable under section 379 r/w. 34 of I.P.C.

2] Accordingly say of learned A.P.P. & Investigating Officer was called. Learned A.P.P. & Investigating Officer have filed their say and submitted their objection to hand over the possession of the alleged muddemal property to the applicant.

3] It is the case of applicant that the above mentioned machinery was owned by the applicant and given by the applicant to Mr. Sanjay Dattaram Salgaonkar for use on profit basis for the period of one year. The alleged machinery was seized by the I.O. during investigation of C.R.No.08/2026.

4] In support of his application, applicant has placed on record affidavit. Applicant has also submitted copy of his Aadhar Card, copy of the FIR of C.R.No.08/2026, copy of the purchase receipts of the alleged machinery. The applicant submitted that he is ready to submit indemnity bond as may be required by the Court. Applicant has shown readiness to abide the terms and conditions laid down by the Court.

5] Heard the learned advocate for the applicant and learned A.P.P. for the State at sufficient length. Perused the application, say filed by the learned A.P.P. and I.O. Learned advocate for the applicant relied upon i) Sunderbhai Ambalal Desai Vs. State of Gujarat (2002) 10 Supreme Court Cases 283 ii) Jeevan Pundlikrao Vs. State of Maharashtra 2005(2) Mh.L.J. I have carefully gone through the above cited supra.

6] Perused the record of the case and document filed on record. On perusal of the record, it appears that, for the

offences punishable under section 65(a),(b),(d),(e), 81, 83, 90 & 108 of the Maharashtra Prohibition Act, 1949, Sec. 123, 341, 342, 345(1), 346 of the Bhartiya Nyaya Sanhita & Sec. 103 & 104 of the Trade Mark Act, 1999, State Excise Office, Kagal no. 3 has registered C.R. No. 08/2026 and during the investigation of the alleged offence the alleged machinery is seized.

7] Moreover, on perusal of say of the I.O. it appears that the said machinery is found in M/s. Canas Packaging Pvt. Ltd. Company who has relation with the alleged offence and the said M/s. Canas Packaging Pvt. Ltd. Company is sealed by the I.O. alongwith the Machinery during the investigation of alleged offence. As per the contention of the applicant the alleged machinery was used by the accused Sanjay Dattaram Salgaonkar. More importantly, admittedly the alleged machinery was given to the Mr. Sanjay Dattaram Salgaonkar on profit basis for the period of one year. As per the contention of the applicant, since six months Mr. Sanjay Dattaram Salgaonkar is using the said godown and machinery.

8] It is significant to note that at the time of the alleged raid of the State Excise Office in the said premises, the property i.e. machinery was in possession of Mr. Sanjay Dattaram Salgaonkar i.e. M/s. Canas Packaging Private Ltd. The said fact is not denied by the applicant. It appears from the say of the I.O. & prosecution that in the said property muddemal of Rs. 22,18,800/- of including corrugation machine, 124 box of alleged illegal liquor etc. was seized and the said muddemal was

kept in the said company by fixing the seal on the said property by the I.O. However, the application itself depicts that the alleged property was given to the other accused by the applicant. Admittedly, the applicant has not legally obtained the possession of the alleged property from Mr. Sanjay Dattaram Salgaonkar i.e. Canas Packaging Private Ltd. to whom it was given by the applicant for the period of one year on profit basis.

9] Learned A.P.P. for the State vehemently argued that the the possession of the property is vested with Mr. Sanjay Dattaram Salgaonkar i.e. Canas Packaging Private Ltd. Per contra, learned advocate for the applicant submitted that applicant is the lawful owner of the alleged machinery. Procedure by police upon seizure of property is prescribed by Section 503 of the B.N.S.S. and the Section itself speaks for order for the disposal of the property or the delivery of such property to the person entitled to the possession thereof. In the present matter, it appears that at the time of alleged raid and at the time of fixing of the seal by the I.O. to the said property, the said property and alleged claimed machinery was in possession of Canas Packaging Private Ltd. and Mr. Sanjay Dattaram Salgaonkar.

10] I had carefully gone through the above cited supra relied upon by the applicant. In sum and substance, all these citations filed by the applicant are distinct and distinguishable and the facts and circumstances in the above cited supra are different from present application, facts and circumstances.

Hence, with due respect, at the present juncture, the above cited supra are not squarely applicable to the present case in hand.

11] More importantly, on perusal of record it appears that the alleged machinery is seized by the I.O. in the sealed M/s. Canas Packaging Private Ltd. Company's premises. Application is completely silent about the existence of the machinery in the premises of Canas Packaging Private Ltd. which is sealed by the I.O. during the investigation of C.R.No. 08/2026. Considering all these aspects, it is not just and proper to hand over the possession of the alleged machinery to the applicant and applicant is not entitled to the possession of the said machinery. Hence, the application is deserved to be rejected. Therefore, I proceed to pass the following order:-

ORDER

The application is rejected & disposed off accordingly.

Kagal.
Date: 17/07/2026.

(Smt. Pranita Suhas Patil)
Judicial Magistrate First Class
Kagal.