

CNR No.MHND270008342024

SCC No.293/2024



The State of Maharashtra Through
Forest Department Nanded Vs
Dadarao savaji Dhage

ORDER PASSED BELOW EXH.11

(Dated 29/11/2025)

- Heard.
- Perused.

1) On perusal of the record, the documents submitted in respect of the present application and after detailed argument of both the sides, the relief prayed is for the release of seized vehicles (Hitachi, JCB, Construction, Excavation, Crusher vehicles extra) is rejected at threshold with the primary legal reason, of the statutory bar on this courts jurisdiction, once the authorized forest officer has initiated independent confiscation proceedings under the amended Indian Forest Act, 1927, as applicable in Maharashtra.

2) The Maharashtra Amendments to the Indian Forest Act, 1927, specifically Section 61G, creates a non-obstante clause that ousts the jurisdiction of this court regarding the custody, possession, delivery, disposal or distribution of property in respect of which confiscation proceedings have been initiated by the authorized Forest Officer.

3) The Apex Court has consistently held that a Magistrate cannot invoke power under BNSS, to release a vehicle once confiscation proceeding are initiated. Initiation of

confiscation proceedings, as per the reply from the forest department vide **(Exh.14)** confirms that formal action has been taken and that all vehicles and assets are eligible to be deposited with the Government, as they were used in forest crime, in a Reserved Forest.

4) The fact that the forest department has sent an intimation about their initiation and action under Sections 52(1) and 61-A of the Act further solidifies the initiation of these proceeding, thereby activating the jurisdictional bar.

5) The property seized includes not only the vehicles but also the machinery used for extraction of forest products. Under Section 69 of the Act, any forest produce is presumed to be Government Property until the contrary is proven by the applicant. The severity of the alleged offence militates against the interim release of the property, which is crucial evidence for the confiscation case.

5) The criminal trial and the confiscation proceeding are independent of each other and runs simultaneously. The question of whether the applicant is ultimately found guilty in the criminal trial is separate from the determination in the quasi-judicial confiscation process, where the focus is on whether the vehicle is used in the commission of the offence. The applicant will have an opportunity to make a representation and be heard before the authorized forest officer in the confiscation proceedings. In view of this above discussion and

keeping reliance in the case of *State of Madhyapradesh Vs. Uday Singh 2019 Supreme (SC) 355*, wherein Hon'ble Supreme Court held that it is the authorized officer who is vested with power to pass an order for interim custody of a seized vehicle under Forest Act and not the Magistrate, I pass the following order :

Order

The application is rejected.

Mudkhed.
Date – 29/11/2025

Sd/-
(Smt. Sheetal P. Koul)
Judicial Magistrate First Class,
Mudkhed.