

ORDER BELOW EXH. 1.

(Passed on 23-03-2026)

1) This is an application filed by applicant Krushna Banduji Dhote for interim custody of Mahindra companies Tractor 575 DI bearing registration no. MH/32/AS/5188 seized in crime no. 175/2026 registered at Samudrapur Police Station, for the for the offence punishable u/s. 303 (2) read with 3(5) of BNS and other sections of Motor vehicle Act.

2) Application is opposed by learned A.P.P He has submitted that accused stolen the black sand in this tractor and hence if the tractor is released on Supurtnama then again accused/applicant will use this vehicle. In support of the the contention, the judgment of Hon'ble Bombay High Court in the case of **Ashok Deshmukh vs. State of Maharashtra, Criminal Writ Petition no. 333 of 2023** is relied upon. Therefore, it is submitted that, application may be rejected.

3) Investigating Officer has filed his reply (Exh.6). He has submitted that, vehicle has been used for unauthorized transportation of sand. Moreover, there is every possibility that he may again commit similar offence if the interim custody of the said vehicle is handed over to applicant. Investigation is in progress. Therefore, he submitted that, application may be rejected.

4) The applicant has filed on record the verified copy of his Aadhar card, verified copy of registration certificate of seized vehicle tractor, and copy of F.I.R.. From the documents filed on record prima-

facie the applicant appears to be the owner of the seized vehicle. Till this date none except the applicant has claimed the custody of seized vehicle.

5) The Ld. Counsel for applicant has relied upon Judgment of Hon'ble Bombay High Court in the case of **Pravin Eknath Solanke Vs State of Maharashtra, AIR Online 2021 Bom 3365**. In the said case the vehicle was seized for theft of sand. Moreover, in the order releasing the vehicle under section 457 of the Code the learned magistrate imposed a condition precedent to deposit fine that may be determined by the Revenue Authority under section 48 of the Maharashtra Land Revenue Code. In the aforesaid back grounds of facts, the Honorable Bombay high Court observed in paragraph 10 that "the question that needs to be addressed as to if the magistrate while exercising the powers under section 457 of the Code could have imposed the impugned condition. In my considered view a magistrate shall not treat the power conferred upon the Revenue Authorities under MLRC putting any fetters on his powers exercisable under section 457 of the Code of Criminal Procedure, 1973. Needless to state that, Revenue Authorities may invoke the provision and the powers under the MLRC and pass appropriate orders and takes suitable steps for its enforcement. The magistrate while passing the order under section 457 shall not carry any impression of their being any impediment in exercising his powers. The law may take its own course. However, putting a condition makes the order contingent upon the exercise or otherwise of the powers by the Revenue authorities. No such condition therefore can be legally put which would prevent operation of an order passed by a magistrate under section 457 of the Code of Criminal Procedure."

6) To the similar tune is the ratio enunciated in **Vinayak Ambadas Adhatrao Vs State of Maharashtra, Criminal Application No.185/2021, decided on 05.07.2021.**

7) Further, the judgment relied upon by the learned APP in the case of **Ashok Deshmukh** also does not state that the any such conditional order of depositing fine shall be passed. Rather it states that “the provisions under section 451 and 457 of the Code and the provisions under 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 MLR Code and 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.”.

8) In view of the above referred touchstone of law, no direction of depositing any fine or penalty in respect of section 48 of the Maharashtra land Revenue Code can be made as a condition precedent for release of vehicle under section 457 of the code of criminal procedure. Neither calling say / reply of Tahsildar is necessary.

9) The investigating officer and learned APP for state have apprehension that if vehicle is released, there are chances that accused will commit similar kind of offence. However, considering the apprehension of learned APP and investigating officer, it would be necessary to impose conditions upon the applicant. Considering the above facts and circumstances, there is no impediment to hand over the

interim custody of the said vehicle to the applicant on appropriate conditions. Thus, I pass the following order.

ORDER

- 1) Application is allowed.
- 2) Interim custody of Mahindra companies tractor 575 DI bearing registration no. MH/32/AS/5188 seized in crime no. 175/2026 be given to the applicant Krushna Banduji Dhote on executing bond of Rs. 15,00,000/- on following conditions.
 - a] He shall not sell, transfer, cause any changes or create any third party interest in the said vehicle.
 - b] He shall produce the same as and when required by the court.
 - c] He shall not use the vehicle for commission of any offence.
 - d] Police Inspector of Police Station, Samudrapur is directed to hand over the custody of said vehicle to the applicant after preparing the detail panchanama of the same. He shall also snap two photographs of the said vehicle.
 - e] Expenses of the photographs shall be borne by the applicant.
- 3 The Ld. Tahsildar or SDO may invoke the provisions and the powers under the MLRC and pass appropriate orders and takes suitable steps for its enforcement, as permissible under law and this order shall not be construed as an impediment in the same and in that eventuality clause (a) and (b) above shall not apply.

Samudrapur.
Dt. 23-03-2026

(P. L. Patil)
Judicial Magistrate First Class, Samudrapur