

IN THE COURT OF METROPOLITAN MAGISTRATE,
36th COURT MUMBAI CENTRAL, MUMBAI.

C. C. NO. :- 37/MISC./2022.

C. C. NO. :- 115/SW/2021.

Railway Protection Force :- Mumbai Central.

Vinod Meher Chandani.

.... Applicant.

V/s.

The Sr. Inspector of Police,

(Railway Protection Force, Mumbai Central, Mumbai)..... **Respondent.**

ORDER BELOW EXH.-1

This is an application moved by the applicant Mr. Vinod Meher Chandani, R/o. A-330, J. D. A. Colony, Malviya Nagar, Jaipur, Block 517, Road 1735, Rajasthan 302017, under Section 451 of The Code of Criminal Procedure seeking the custody of Kurties, Ladies Dress Value ₹ 78,469/- seized by Railway Protection Force, Mumbai Central, in connection with C. R. No. 8/2021, registered for the offence punishable under Section 3 of the Railway Property (Unlawful Possession) Act, 1966.

2. Applicant request to release the seized property on the ground that, he is the lawful owner of the said muddemal and no purpose shall be served in case the same is kept in the RPF custody. That he is ready to obey the orders of Court and be abide with the conditions imposed upon him.

3. Ld. P.P. has submitted his say to the application and strongly opposed the said application. Ld. P.P. objected on the grounds that the applicant has not produced any of the bill of the said property. That without bill it is very difficult to prove the ownership of the applicant over the property. Enquiry Officer failed to file his say.

4. I have heard Ld. Advocates for both the parties.

5. Under section 457 of the Code of Criminal Procedure only the entitlement of possession of seized article has to be considered by the Magistrate. It is the contention of the present applicant that, he is exporter and export Kurties and ladies dress from exporter. As per the Invoice bearing No.0005 dated 23/08/2021 and TAX invoice bearing No.21-22/0010 dated 24/08/2021 and the same consignment booked on 25/08/2021 for Mumbai by train No.02956. To substantiate his contention, the applicant has produced on record the Copy of authority letter and GST and Copy of his Aadhar Card.

6. I have perused application and gone through documents attached therewith. It is evident from record that, applicant has not filed the copy of Invoice bearing No.0005 dated 23/08/2021 and TAX invoice bearing No.21-22/0010 dated 24/08/2021 regarding property in question to show that, he is the lawful owner or he is having authority to export the said property. However, applicant has not filed No objection of other accused against whom case is pending. Therefore, I am of a view that the applicant has not any locus standy to file the present application in absence of any relevant documents. Hence, I found substance in the submissions made by the prosecution. At the outset, I am not inclined to hand over the seized muddemal to applicant, on above grounds and pass the following order :-

ORDER

1) The application stands rejected.

Sd/-

(B. K. Gawande)

Date : 16/09/2022.
SRD.

Metropolitan Magistrate, 36th Court,
Mumbai Central, Mumbai.