

MHGA070008992022



**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, AHERI,
DISTRICT-GADCHIROLI**

(Presided over by Amolkumar A. Deshpande)

Cr. M. A. No. 251/2022

APPLICANT :- Ms. Mohsina Firozkhan Pathan,
through her Power of Attorney
Javedkhan Rustamkhan Pathan,
Aged 34 years, Occup. – Labourer,
Resident of Alapalli, Taluka- Aheri,
District – Gadchiroli.

- V E R S U S -

NON-APPPLICANT: State of Maharashtra
Through Police Station Officer,
Police Station, Aheri,
Taluka – Aheri, District -Gadchiroli.

Appearance :

Learned Advocate Mr. Udayprakash S. Galbale for the applicant.

Learned A.P.P. Mr. Sudhakar K. Paradhi for the non-applicant.

ORDER BELOW EXH.01

(Passed on 11th November 2022)

1. In view of section 457 of the Code of Criminal Procedure, 1973 [hereunder referred to as 'Criminal Code'], applicant through her Power of Attorney has prayed for custody over the seized vehicle.
2. It is contended that, applicant owns a TVS Company Jupiter BS-IV bearing no. MH-33-Z-6943. It is further contended that, the vehicle has

been seized in crime registered by the Police Station, Aheri. It is contended that he needs the vehicle for daily use and daily work. He has undertaken to produce the vehicle as and when directed. It is also contended that the value of the vehicle will deteriorate if it remains in police custody. Therefore, it is prayed that the vehicle be returned in applicant's custody.

3. The investigation officer/PSO of Police Station, Aheri has filed his say at Ex.05. He has objected the application in his reply.
4. The learned Assistant Public Prosecutor has filed his say below Exh.01 and strictly objected the application.
5. At hearing, I have heard applicant's learned Advocate Mr. Udayprakash S. Galbale and Learned Assistant Public Prosecutor Mr. Sudhakar K. Paradhi.
6. To support his claim on the vehicle and its custody, applicant has relied upon the documents along-with list Ex.04. He has produced Original copy of his Power of Attorney holder. He has also produced photocopies of Vehicle Particulars of the said vehicle and Aadhar Card of Power of Attorney Holder.
7. It appears from the available documents that applicant was the registered owner of the aforesaid vehicle, i.e. the TVS Motor Company Jupiter BS-IV Bike. The registration seems to be valid and therefore, applicant's claim over the vehicle stands solid. It is true that a vehicle is nowadays part of one's daily routine. It is luxurious need of all. So, applicant's claim is considerable. Moreover, if the vehicle is left stranded in premises of the concern police station, its condition and value will certainly deteriorate.
8. Therefore, it can be concluded that the applicant and his application succeed. However, it is necessary that the directions in case of ***Sunderbhai Ambalal Desai vs. State of Gujarat***¹ must be adhered to. At release, the detail panchnama must be prepared about the vehicle. Similarly, photographs of the vehicle must be taken from each side, prior

¹ (2002) 10 SCC 283

to such release. Applicant shall also furnish security towards subsequent production of the vehicle before Court, in case needed. Therefore, it is obvious to state that, the return of vehicle will be conditional and subject to certain compliances.

ORDER

1. The application allowed.
2. The Two Wheeler model Jupiter BS-IV manufactured by TVS Motor Company Ltd., bearing registration number as MH-33-Z-6943, having Chassis no. MD626EG4XJ1G22420 and bearing Engine No. EG4GK112839; shall be handed over to the applicant Ms. Mohsina Firozkhan Pathan through her Power of Attorney Javedkhan Rustamkhan Pathan on following conditions-

1. applicant to execute a bond of Rs.70,000/- [in words of Rupees Seventy Thousand] undertaking obligation to abide conditions in this order.
2. applicant shall not sale, mortgage, dispose, transfer, alineate or destroy the vehicle, till disposal of the case arising from Crime No. 392 of 2022, of Police Station, Aheri.
3. applicant shall not use the said vehicle for commission of similar or any other offence.
4. applicant shall not change the color of body, panel of body or appearance of the vehicle, without permission of this Court, till disposal of the case arising from Crime No. 392 of 2022, of Police Station, Aheri. For that, four photographs showing the vehicle from each side shall be taken and handed over to the concerned PSO, at the time of panchnama prior to release.
5. applicant shall produce, as and when ordered, the vehicle before the Court dealing with trial of the case arising from Crime No. 392 of 2022, of Police Station, Aheri.
6. lastly, applicant shall execute personal bond of Rs. 15000/- and surety bond in like amount OR a bank guarantee of Rs. 70000/- to secure subsequent

production of property before the Court.

3. Inform to Police Station, *Aheri*, accordingly, to release the vehicle **only after full compliance** of the aforesaid conditional order. Inform him to prepare neat and clear panchnama of the vehicle while releasing it, and to obtain the photographs as ordered.
4. The bond (Supurdnama) so executed be kept in papers of the case arising from Crime No. 392 of 2022, of Police Station, *Aheri*, without fail.
5. All the concerned note the order and it be uploaded in C.I.S.

Date – 11th November 2022.

[Amolkumar A. Deshpande]
Judicial Magistrate First Class, *Aheri*
[JO Code- MH02091]

CERTIFICATE

I affirm that the contents of this PDF file order are same word to word as per the original Judgment or Order.

Name of the stenographer :- J.A. Gadekar, Grade -III.

Name of the Court :- C.J.J.D. & J.M.F.C. Aheri,