

ORDER BELOW EXH.NO.01 IN CRI. MISC. APPL. NO. 252/2022

RAM VS. STATE

This is an application filed under section 457 of the **Code of Criminal Procedure**, 1973 for seeking interim custody of property described below, seized in Cr. No. 245/2022 by Dharur police Station, for offences punishable u/sec. 328, 272 and 273 of the Indian Penal Code, 1860.

2. Description of properties under application is as under:

Splender Motorcycle bearing No. MH-44-N9330 having Engine No. EMFHM 16023 and Chassis no. ACFHM 16445.

It is the contention of the applicant that, the said vehicle was seized by the police officer, police station Dharur on cr. No. 245/2022. The said vehicle has been kept in the police station and applicant need it for his daily works. The vehicle kept in police station since its seizer hence it is lying in unused condition in Police Station, and there is possibility of damage to its parts. He is owner of the said vehicle and prayed that, application be allowed. He is ready to abide the terms and conditions imposed by court. Accordingly, concerned Officer of Dharur Police Station be directed to return the said vehicle.

3. Say of Investigating Officer, Id. A.P.P. and Food Safety Officer was called. The Id. A.P.P. filed his say. He opposed the application on the ground of apprehension that after it releasing possibility of using vehicle in commission of same kind of offence by applicant. It is necessary to know whether the confiscation proceeding is completed by the concern authority or not.

4. Perused the record. Heard, the learned advocate appearing on behalf of applicant. Applicant has relied on documents filed along with list at Exh. No.03. He filed copy of F.I.R. in Cr. No. 245/2022, verified copy of R. C. Book of seized vehicle, copy of vehicle insurance policy and copy of his identity card i.e. Adhar card.

5. The applicant has filed verified copies of particulars of vehicle R.C. Book. In the R.C. book the registered owner of the vehicle is shown the applicant. This fact prima facie shows that, the applicant is the owner of the said vehicle. Besides it the vehicle is also insured. Applicant has filed on record the verified copy of Insurance Policy which is issued in the name of the applicant and the vehicle insured is same vehicle under application. Hence, prima facie the applicant is the rightful claimant of the vehicle.

6. Considering above mentioned facts and say filed by ld. A.P.P. in my view prima facie there is nothing to deny the claim of applicant. Applicant is entitled for the interim custody of property as described above after due verification and perusal of documents filed by him. As contended by the applicant that there is possibility of damage to said vehicle as it is laid down in police station in unused and idle condition. In such circumstances I am guided by the decision given by the Hon'ble Apex Court in the case of **SUNDARBHAI AMBALAL DESAI VS. STATE OF GUJRAT, AIR 2002 SUPREME COURT 638,** In which the Hon'ble Apex court guided that the property seized should be released as early as possible and must not be kept lying in the police station. As per principle laid down in supra, it will be appropriate to deliver the property as described above to the applicant as being entitled to possession of them.

7. For the apprehensions contended by Ld. APP, conditions may be imposed while handing over interim custody of the vehicle. Merely because vehicle is required for investigation cannot be ground to keep vehicle idle condition at police station. Though the vehicle required for investigation or trial it can be made available to concern authority for investigation or trial. By imposing certain terms and conditions while giving the interim custody of property to the applicant in view of the apprehension expressed by investigating authority and prosecution, so that, the said muddemal can be made available before investigation officer during the course of investigation. I do not find any just reason to deny the interim delivery of seized vehicle as described above to the applicant. Hence, following order is passed;

ORDER

1) The application is allowed.

The Investigating Officer of Police Station, Dharur, Tq. Dharur and Dist. Beed is hereby directed that vehicle **Splendar Motorcycle bearing No. MH-44-N9330 having Engine No. EMFHM 16023 and Chassis no. ACFHM 16445** seized in Cr.No.245/2022, for offences punishable U/Sec. 328, 272 and 273 of the Indian Penal Code, by Police Station, Dharur, be handed over to the applicant namely **Ram S/O Achyutrao Maykar**, after furnishing Indemnity Bond of Rs.10,000/- (Ten thousand rupees) by applicant, on his proper and due identification.

2) The applicant is directed to produce the seized Muddemal i.e **Splender Motorcycle bearing No. MH-44-N9330 having Engine No. EMFHM 16023 and Chassis no. ACFHM 16445** in the Court as and when ordered by the Court during the course of trial and he is further directed

not to change, alter, transfer or modify the said Muddemal property in any way.

- 3) The applicant shall furnish Indemnity Bond at Police Station, Dharur, Tq. Dharur and Dist.Beed.
- 4) The Investigation Officer is directed to prepare proper detail Panchanama, while handing over the interim custody of the seized vehicle and also to snap Colour Photographs from all four sides as well as close photographs of vehicle, at the cost of applicant and submit the same as well as indemnity bond along with chargesheet.
- 5) Application is accordingly disposed off.

Date:- 10.11.2022
Dharur

sd/-
A. B. Jondhale
2nd Jt. Judicial Magistrate First Class,
Dharur