

ORDER BELOW EXH. 1

This is an application under section 457 of the code of Criminal Procedure filed by the applicant for the interim custody of the motorcycle i.e. HERO HONDA MOTORS LTD. Model CD Delux Mack wheel, Colour: RBK, bearing Reg. No. MH-30 U – 8318, Engine No. 07J22E18236, Chasis No. 07J02F28310, seized by police Station Pinjar in FIR No. 291/2022 for the offence punishable u/s. 379 of Indian Penal Code .

The applicant submitted that his motorcycle having HERO HONDA MOTORS LTD. Model CD Delux Mack wheel, Colour: RBK, bearing Reg. No. MH-30 U – 8318, Engine No. 07J22E18236, Chasis No. 07J02F28310 is seized by P.S.O. Police Station Pinjar for the offence punishable under section 379 of Indian Penal Code. The applicant submitted that the motorcycle is owned by him and his required for his livelihood. The applicant filed copy of Adhar Card of applicant on Exh 3/1 Copy of registration certificate at Exh. 3/2 And copy of FIR at Exh.3/3. The applicant submitted on affidavit the application and prayed for the interim custody of the motorcycle on conditions.

Perused the say of the Ld. APP and investigation officer. The investigating officer that submitted his no objection to released the motorcycle on conditions. The Ld. APP objected the application and submitted that the motorcycle is part and parcel of evidence. Therefore, prayed to reject the application

Heard, the Ld. Advocate for the applicant and perused the document. The FIR and copy of registration certificate filed on record

reveals that the applicant that is the owner of the motorcycle. Till date no one except the applicant has claimed seized motorcycle. The applicant has also filed his copy of Adhar card established identity therefore, there is no legal hurdle in releasing the interim custody of the vehicle to the applicant by imposing certain conditions. Moreover, considering the nature of property the value of the motorcycle will get depreciated if it is kept lying in the police station. However, in view of the directions of the Honorable Supreme Court in **Sunderbhai Ambalal Desai Vrs. State of Gujarat (A.I.R.2003 Supreme Court 638)** where it is directed to the Magistrates that, the vehicles lying at police station having no use there, to be released as expeditiously as possible.

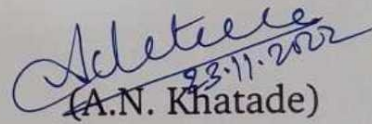
Therefore, in the present facts and circumstances and aforesaid reasons, I pass the following order:

ORDER

1. Application is allowed.
2. Interim custody of motorcycle HERO HONDA MOTORS LTD. Model CD Delux Mack wheel, Colour: RBK, bearing Reg. No. MH-30 U – 8318, Engine No. 07J22E18236, Chasis No. 07J02F28310 be given to the applicant on his supurtnama on executing bond or Rs.75,000/-on following conditions:
 - a. He shall not dispose- of, mortgage or sell the released property.

- b. He shall produce the same as and when ordered by the Court.
- c. He shall not change the condition of released property.
- 3. IO shall prepare detail panchanama before handing over the property and to take photographs of released property for the purpose of identification.
- 4. The expense of photograph shall be borne by the applicant.
- 5. The I.O. is directed to report the compliance to this Court after releasing the property, as soon as possible.
- 6. Copy of order be given to PSO, Pinjar Police station.

Dt. 23-11-2022


(A.N. Khatade)

Jt. J.M.F.C. Jr. Dn., Barshitakli