

MHAU110015112022

Cri.M.A.No.269/2022
Shridhar Vs. State**ORDER BELOW EXH.1**

This is an application filed by applicant under section 457 of Code of Criminal Procedure, 1973 for interim custody of vehicle on supurtnama which is seized by police in Cri. No. 215/2022 for offence punishable under section 65 (e) Bombay Prohibition Act.

2. Read the application and perused documents filed along with it. The application is supported by the affidavit of the applicant.
3. The Investigating Officer has filed say on Exh.5 and Learned A.P.P. has filed his say on back leaf of Exh.1. They have taken objection to releasing the seized H. F. Deluxe (Self-Drum Cast) motorcycle bearing Registration No. MH-20-FN-5765 in favour of applicant. Heard Ld. Advocate Shaikh and Ld. A.P.P. Accused Bhagwan Shantaram Kakade has filed his affidavit below Exh.6 and given no objection to handover possession of muddemal to applicant, which is seized by police from his custody.
4. The applicant in support of his contention has filed on record verified copy of registration certificate, verified copy of adhar card, photocopy of FIR.
5. From the above documents, the applicant Shridhar Bhaginath Mankape appears to be the owner of the seized H. F. Deluxe (Self-Drum Cast) motorcycle bearing Registration No. MH-20-FN-5765 in question. Hon'ble Apex Court in the case of **Sundarbhai Ambalal Desai Vs. State of Gujrat reported in 2003 SCC Crime 1943**, held that whatever be the situation it is of no use of keeping such seized vehicle at the police station for long period and it is for the magistrate to pass appropriate order immediately by taking appropriate bond and gurantee as well as security for the return of the said vehicle if required of any

point of time. Therefore, no purpose would be served in keeping the seized property i.e motorcycle lying in the Police Station premises. The possibility of the damage to the property can not be ruled out if kept lying in the Police Station. The trial would not be concluded in near future. In the present crime nobody except the applicant came before the court to claim in respect of the seized property. The apprehension of the prosecution can be ruled out by imposing certain condition at the time of release of the vehicle. Hence, I have no hesitation to return the seized said motorcycle in favour of applicant by imposing terms & conditions. Hence order :

ORDER

1. The application is allowed.
2. The seized property i.e. H. F. Deluxe (Self-Drum Cast) motorcycle Registration No.MH-20-FN-5765, Engine No. HA11EPL5A06501 be handed over to the applicant viz. Shridhar Bhaginath Mankape till the conclusion of the trial on his executing indemnity bond of Rs.1,00,000/- (One Lakh Only) on following terms and conditions.
3. The applicant to undertake that, he shall not sell or transfer or alter the nature of said motorcycle without the prior permission of the Court. The applicant to maintain and preserve the property in all respects and not use vehicle for commission of any crime.
4. The applicant shall provide document of vehicle to investigation officer.
5. The applicant shall produce the seized property in the Court as and when directed by this Court.
6. The applicant to execute Indemnity Bond before concerned Investigation Officer.
7. Investigation Officer is directed to prepared panchnama of handing over and take photographs of the vehicle submit panchnama, phtograph and Indemnity Bond along with charge sheet of Cr.No.215/2022.
8. Issue letter to the P. I. Police Station Vadodbazar, Dist. Aurangabad accordingly.

Sd/-

(Dhananjay S. Deore)

Judicial Magistrate First Class,
Court No.2, Phulambri.

Place :-Aurangabad.
Date :- 10/11/2022.

CERTIFICATE

I affirm that the contents of this [P.D.F.](#) file order are same, word to word, as per the original order.

Name of the Stenographer	: S. D. Chavan
	Stenographer
Court	: JMFC Court, No. 2, Phulambri.
Date	: 10/11/2022.
Order signed by the	
presiding officer on	: 10/11/2022.
Order uploaded on	: 10/11/2022.

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