

CNR NO. MHTH060035342022



ORDER BELOW EXH. 13 IN S.C. NO. 346/2022
(Hilline Police Station Vs. Raghunath Krushna Bhoir)

01. By way of this application, applicant **Raghunath Krishna Bhoir** pray for grant of interim custody of motorcycle viz Honda ACTIVA 5G bearing registration No. MH-05-EF-4726, having Chasis No. ME4JF921JKW017370, engine No. JFS2EW0017401. u/s. 451 of the Cr.P.C.

02. On going through chargesheet it reveals that daughter of applicant had produced the vehicle before police during investigation. Applicant is registered owner of the vehicle. The vehicle in question is seized by the investigating agency police station Hill line in crime No. I-68/2022 for the offence punishable u/s. 307, 201, 506 of the I.P.C., Sec. 4, 27 of Arms Act and Sec. 37(1) 135 of Maharashtra Police Act.

03. After receipt of application, say was called. Ld. A.P.P. strongly opposed the application on the ground that the applicant

may tamper with the vehicle or misuse the vehicle for repetition of same kind of offence.

04. In the case of ***Sundarbhai Amabalal Desai Vrs. State of Gujrat reported in AIR 2003 SC 638*** the Hon'ble Apex Court while considering the power under sec. 451 and 457 of the Cr.P.C. observed that such power should be exercise expeditiously and judiciously to serve various purposes namely-

(1)owner of the article would not suffer because of its remaining unused or by its misappropriation.

(2) court or the police would not be required to keep the article in safe custody.

(3) if the proper panchanama before handing over possession of the article is prepared that can be used in evidence instead of its production before the court during trial. If necessary, evidence could also be recorded describing the nature of property in detail, and

(4) the jurisdiction of the court to record evidence should be exercise promptly so that there may not be further chances of tampering with article.

05. In the present case, there is no dispute as regard seizure of vehicle in question. Admittedly, applicant / accused is registered

owner of the vehicle. The incident is of dated 28/02/2022. Since the date of seizure, vehicle is lying in the premises of police station without any reason. The investigation is completed and chargesheet is filed. Except the applicant, no other person claim the vehicle in question. The seized motorcycle being mechanical equipment requires regular maintenance. If the motorcycle is kept as it is for years together in ideal condition in the premises of police station it would certainly damage and said scrap is of no value. In view of observation recorded in the case of *Sundarbhai (Supra)* applicant is entitled for interim custody of the vehicle in question. Production of vehicle is not necessary during trial and photograph of the vehicle would be sufficient to be proved in evidence.

06. In the present matter, admittedly, applicant is registered owner. Documents filed by the applicant i.e. copy of R.C. Book corresponding to that effect. Except the applicant, no one has ever claimed custody. Having due regard to the nature of allegation, physical production of vehicle is not necessary during trial and photograph of the vehicle would be sufficient to be proved in evidence. If the vehicle is kept as it is in ideal condition, it would damage and its market value would be of scrap. Considering all these factors, I pass the following order.

ORDER

- 1) The application is allowed.
- 2) Investigating officer of C.R. No. I-68/2022 of Hill Line Police Station is directed to hand over interim custody of the motorcycle viz Honda ACTIVA 5G bearing registration No. MH-05-EF-4726, having Chasis No. ME4JF921JKW017370, engine No. JFS2EW0017401 on executing supratnama bond of Rs. 50,000/-.
- 3) Investigating officer is further directed to take photograph of the seized motorcycle viz Honda ACTIVA 5G.
- 4) While giving interim custody detail panchanama describing condition of the vehicle to that effect be prepared and photograph with said panchanama be filed on record in S.C. No. 346/2022.
- 5) Bond before Court.

Kalyan
Date : 21/11/2024

(P. P. Muley)
Additional Sessions Judge - 6,
Kalyan