

ORDER BELOW APPLICATION FOR RETURN OF PROPERTY

1] This is an application filed by applicant for return of property namely Activa 4G motorcycle bearing No. MH-01-CY-8146 valued at Rs.40,000/- seized in C.R. No.386/2018 registered under section 379 of the Indian Penal Code by Bandra Police Station.

2] On the application say of Investigating Officer was called. The Investigating Officer has filed say wherein no objection to handover custody of seized property to the applicant on certain terms and conditions is conveyed.

3] In support of application, the applicant has filed on record his own affidavit and submitted that he is registered owner of the said motorcycle and he will abide every condition imposed by this court.

4] Perused application, documents filed on record, say of police and affidavit in support of application. Heard advocate for applicant. On perusal of the application and verified copies of certificate of registration, insurance papers, purchase receipt etc. of the said motorcycle, it is seen that the applicant is owner of the said vehicle. The applicant has annexed verified copies of Aadhaar card, driving license as proving of identify and address. The Applicant has also filed on record xerox copy of F.I.R. dtd. 24/07/2018 which shows Ismail Sahebalam Shaikh - nephew of applicant to be the original informant on whose report crime is registered. Therefore, the applicant has filed on record affidavit of Ismail Sahebalam Shaikh who gave no objection to handover the said motorcycle to the applicant.

5] At this stage except the applicant there is no other claimant who has claimed the custody of seized vehicle. Admittedly the said vehicle cannot be termed as weapon and no purpose is likely to be served by detaining the said vehicle in the custody of investigation agency till conclusion of trial. On the other hand there is every possibility that the vehicle will get damaged in case keep in open which is in the possession of the investigation agency. Therefore, the application for return of property certainly deserves to be allowed as no prejudice

is likely to be caused to the investigation agency, if the same is handed over to the original owner. Hence, the application deserves to be allowed on certain terms and conditions. Therefore, I pass the following order :

ORDER

1] The application is allowed.

2] The seized property namely Aactiva 4G motorcycle bearing No.MH-01-CY-8146 valued at Rs.40,000/- seized in C.R. No.386/2018 by Bandra Police Station, be returned to Applicant Mr. Mohammad Jafar Shaikh residing at Ground Floor, Janata Naya Nagar, Opp. Raheja Hospital, Mumbai-16 on executing indemnity bond of Rs.40,000/- (Rupees Forty Thousands Only) with condition that :

- a) The applicant shall not to sell, transfer, alienate, dispose off the said motorcycle or any part of it to any third person before the conclusion of trial.
- b) The applicant shall not change the nature of the said motorcycle in any mode or manner and shall not use for unlawful purpose.
- c) The applicant shall produce the said motorcycle as and when directed by the Court in the trial or by Investigating Officer in the course of investigation.
- d) The applicant shall follow the conditions imposed on him scrupulously.

3] The Investigating Officer is directed to take the above indemnity bond of applicant and shall return the muddemal on due verification of applicant. Investigating Officer further directed to file indemnity bond in the Court. On filing of indemnity bond, it be attached with the charge-sheet.

Order accordingly.

Sd/-

Mumbai
Date : 18/08/2018

(S. R. Sharma)
Metropolitan Magistrate
12th Court, Bandra, Mumbai