



Special Case No.40/2023
CNR No. MHPU010008762023
(State of Maharashtra Vs. Shivanand)
ORDER BELOW EXH.20

The accused filed present application under sections 451, 457 of the Code of Criminal Procedure for interim custody of his two wheeler vehicle bearing registration No. MH-12-NF-4987.

2] The accused also claimed return of the mobile property. But he filed pursis Exh.26 that mobile is received by him and he is not claiming mobile as prayed in application Exh.20.

3] The prosecution alleged that accused and victim girl aged 16 years became friends in June 2021. Then the accused committed alleged crime for offences u/secs. 354(A), 354(D), 341, 386, 323, 504, 506 of the IPC and u/secs. 8 and 12 of the POCSO Act. The victim alleged that the accused used to demand money from her on several grounds and initially she paid Rs. 9000/- and then paid Rs. 80,000/- to the accused from time to time. She also alleged that in June 2022 the accused beat and threatened to kill her and in fear she gave gold chain of her neck to the accused to purchase KTM -RC 500 bike. Thereafter also the

accused used to demand money and quarrel with her. Her parents asked her about gold chain and she narrated all incidence to them. Thereafter, she lodged FIR on 13.11.2022.

4] After registration of offence, the vehicle of the accused is seized on 15.11.2022.

5] Ld. advocate for the accused argued that the accused purchased above said vehicle in the year 2016 as per registration of certificate of said vehicle. There is no evidence on record that the victim paid any amount to the accused and accused purchased the vehicle from said amount. He submitted that the accused required vehicle for his daily use. No purpose will be served by keeping vehicle idle at the police station. The accused will produce the vehicle in the court in same condition as and when directed.

6] Ld. APP opposed the application and argued that it is part of trial to find out whether the vehicle is purchased by the accused from the money taken by him from the victim. The accused will change nature of vehicle or disposed of it after it is handed over to him.

7] The registration certificate of the vehicle revealed that the vehicle is registered in the name of the accused on 17.02.2016. The allegations in the FIR about giving money by the victim to the accused or giving gold chain by her to the accused, is not of the year 2016. Those allegations are of the year 2022. Thus, prima facie argument of Ld. APP would not be accepted that accused

purchased vehicle either from money received from the victim or by using her gold chain.

8] In case the vehicle is kept at a police station, its conditions will be deteriorated. Besides as per case law of "*Sunderbhai Ambalal Desai Vs. State of Gujrat (2002 supp(3) SCR 39)*" of the Hon'ble Supreme Court, the seized vehicle can be returned to its registered owner during pendency of trial. Thus the application needs to be allowed. Therefore, following order is passed.

ORDER

1. The application is allowed.
2. I.O. is directed to hand over possession of seized Motorcycle bearing registration No. MH-12-NF-4987., to the accused till conclusion of trial, on execution of indemnity bond of Rs. 80,000/- by the accused.
3. The accused to undertake that he shall not sell, transfer, gift or destroy or otherwise alienate the said vehicle and he shall maintain and preserve the same in all respect, till conclusion of trial.
4. The accused shall produce the property in the Court as and when directed.
5. The I.O. is directed to prepare proper panchanama and take photographs of the vehicle from all sides, while returning the vehicle to the accused and file the same in the Court.

Pune.
Date -05.10.2023

(V. D. Nimbalkar)
Additional Sessions Judge,
Pune.

: 4 :

I affirms that, the contents of the P. D. F. file Order are same word for as per original Order.

Name of Steno	Smt. Snehal S. Gade (G-III)
Court Name	V.D. Nimbalkar Additional Sessions Judge, Vadgaon, Dist-Pune
Date	05.10.2023
Order signed by Presiding Officer on	05.10.2023
Order uploaded & PDF on	10.10.2023