

MHAH010040682021



: ORDER BELOW EXH. 25 IN SESSION CASE
NO. 128/2021 :
(State Vs. Kanhu Gangaram More and others)

This an application filed by the applicant namely Suresh Devidas Kulthe under Section 457 of the Criminal Procedure Code, for releasing Motorcycle bearing Registration No. MH-17-BF-0683.

2] Further it is stated that, complainant filed complaint at Rahuri police station. On the basis of which Crime no. 286/2021 was registered under Section 302 etc. of IPC, and 5 accused arrested. Present applicant is not accused in the present crime and he has no concern with the alleged offence. Applicant is registered owner of the seized motorcycle. Accused Akshay Suresh Kulthe is his son. Said motorcycle is daily used. Earlier application is filed before Ld. JMFC Court, however, it was withdrawn as matter was likely to be committed to the Court of Sessions. Further it is contended that, applicant is owner and having R.C. Book with him. If the vehicle is kept in the idle condition at one place for long time, then it's material parts will get rusted and damaged. Applicant is ready to produce the vehicle before the court as and when required. Applicant is ready to obey the condition if any imposed by the court. Accordingly, prays for to grant the application.

3] Ld. APP by filing say at Exh. 47 stated that, police has seized the said motorcycle in connection with crime no. 286/2021 of Rahuri police station. Seized motorcycle is used by the accused. If the motorcycle is handed over to the applicant, they will change, alter nature of the vehicle or transfer the vehicle to third party. Hence application filed by the applicant be rejected.

4] Perused application and say. Heard both the parties. As per the applicant he is not accused in the crime no. 286/2021 and his son was found with the said vehicle at the time of alleged offence. However, he has no concern with the alleged offence. He is registered owner of the seized vehicle and is ready to produce the said vehicle before the court, as and when required.

5] It is main contention of the prosecution that, if the vehicle is handed over to the accused, then he will use it for the commission of identical offence, hence it may not be handed over to the applicant.

6] It is pertinent to note that, if the vehicle is kept idle at one place for long time then it's material parts get damage and no purpose will be served by keeping the vehicle in police station. In support of his contention he has filed true copy of R.C. Book, from which it appears that, Suresh Devidas Kulthe i.e. applicant is owner of vehicle no. MH-17-BF-0683. Accordingly, considering this aspect it will proper to hand over custody of the said vehicle to the applicant. Hence following order.

: ORDER :

- 1] The application is allowed.
- 2] The seized muddemal i.e., Motorcycle bearing Registration No. MH-17-BF-0683 be returned to the **applicant Suresh Devidas Kulthe** on executing Indemnity Bond of **Rs.50,000/-** (Rs. Fifty Thousand only) on due verification.
- 3] At the time of handing over vehicle to the applicant it's photographs will be drawn from both side and it be returned with the Indemnity Bond.
- 4] Applicant is directed not to change the nature and colour of the vehicle.
- 5] The Applicant shall not create any third party interest in respect of the said motorcycle until conclusion of the trail.
- 6] Applicant is directed to produce the said motorcycle before the Court as and when required.

Date : 17/11/2022

(W. J. Daithankar)
Additional Sessions Judge-8,
Ahmednagar