



CNR No.	GANG050020762022		
Presented on	21.12.2022		
Registered on	21.12.2022		
Decided on	31.07.2023		
Duration	Years	Months	Days
	-	07	10

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST
CLASS AT BICHOLIM, GOA.**

(Before Akshata Kale, J.M.F.C., 'B' Court, Bicholim,)

Criminal Misc. Appln. No.155/2022/B

Mrs. Pritam Prabhakar Shirodkar,
Age 32 years, the Resident of house No.17,
Kotiwada, Karapur, Bicholim Goa

Presently residing at H.No.56,
Varpal, Haturli, Maem,
Bicholim Goa.

.... Applicant

Versus

STATE

Represented by the P.I.
Bicholim Police Station
Bicholim-Goa.

... Respondents.

Ld. Advocate Y. Mandrekar present for the Applicant at the time of hearing and Order.

Ld. APP C. Sawant present for the Respondent at the time of hearing and Order.

ORDER

(Delivered on 31st July, 2023)

This is an application filed under section 457 Code of Criminal Procedure (hereinafter 'Cr.P.C.' for short).

2. According to the Applicant she is the registered owner of vehicle namely Pleasure scooter bearing registration No.GA04-D-5599. Applicant has failed to mention chassis number and engine number of the vehicle. Said vehicle hereinafter to be referred as 'said vehicle.

3. The said vehicle was attached by Bicholim Police in crime

no.102/2022 under Sections 326 of IPC. The applicant has prayed that she is the registered owner of the vehicle, the same be released to her on such conditions as this Court deems fit.

4. Say of the Investigating Officer was called for at exhibit C-6 wherein it is stated that the aforesaid vehicle is a material evidence against the accused person and is required for identification during the course of trial. If the vehicle is released to applicant there is a possibility that she will change the colour, engine number etc thereby it will be difficult for the prosecution witness to identify the Mo property at the time of trial and thus, prayed that application be dismissed.

5. I have perused the record and heard learned Advocate Y. Mandrekar for the Applicant and learned APP C. Sawant for the respondent.

6. The following point arises for my determination to which I give my findings as under:-

POINT FOR DETERMINATION	FINDING
1. Whether the applicant is entitled for release of its vehicle under Section 457 Cr.P.C.?	Yes, upon conditions

REASONS

7. Section 457 Cr.P.C. authorises Magistrate to release any property seized by the police wherein such property is not produced before the Court during inquiry or trial of the persons entitled to such property. The Magistrate is also empowered to impose conditions while releasing such property.

8. Applicant in support of her case has produced on record registration certificate of the vehicle which shows that she is the registered owner of the vehicle which is not disputed by the respondent. Ld. Adv. Y. Mandrekar also submitted that deem fit order be passed as the applicant is the registered owner of the vehicle so also Ld. APP submitted the same thing.

9. The Hon'ble Bombay High Court in the case of ***Jeevan Pundlikrao Kendre v. State of Maharashtra 2005 (2) MAhLJ 475*** has held that the purpose behind the exercise of powers under Sec.457 Cr.P.C. is to see that the vehicle is not kept unattended while lying in the court premises or police station so that it does not become junk day by day.

10. Relying upon the above judgment no purpose will be served by keeping the vehicle idle at the police station. Applicant

can be put to necessary terms in order to address the other apprehensions expressed by the IO. Thus, following Order is passed:

ORDER

1. The application is allowed. Vehicle make Pleasure scooter bearing registration No.GA-04-D-5599, is released to applicant in Bicholim P.S. Crime No.102/2022 on the following conditions:

- a) The Applicant shall produce the said vehicle before the Court and/or before the Police and/or before any other authority, as and when directed.
- b) The Applicant shall not sell, transfer or alienate the said vehicle, in any manner whatsoever, without prior Orders of this Court.
- c) The Applicant shall not change the colour and/or modify the appearance of the said vehicle, without prior orders of this Court.
- d) Before releasing the said vehicle the I.O. shall record a detailed release panchanama and shall obtain photographs of the said Vehicle make Pleasure scooter bearing registration No.GA-04-

D-5599 clicked from all the four sides. The Photographer (if any) shall be arranged by the Applicant and all the expenses towards clicking, developing, printing photographs shall be borne by the Applicant.

e) Applicant shall self attest every such photograph taken.

f) The Applicant shall not use the said vehicle for committing any offence.

g) The Applicant to furnish an indemnity bond of Rs.1,00,000/- (Rupees One Lakh Only) before this Court undertaking to abide by all the conditions imposed above.

2. Issue necessary letter to the Officer In charge of Bicholim Police Station to release the said vehicle to the Applicant upon fulfilling condition no. (d), (e) & (g).

3. Tag R & P of this Cr.M.A. with the Final Report which is already filed before the Court.

Dictated and pronounced in the open Court.

Bicholim

Date: 31.07.2023.

(Akshata A. Kale)

Judicial Magistrate First Class,
'B' Court, Bicholim-Goa.