



Cri. M. A. No. 164/2022

Evotech Hydro Pvt.Ltd. Vs. State.

CNR No.MHRG090007672022

ORDER BELOW EXH.01

(Passed on 22nd November, 2022)

The instant application is filed by the applicant under section 457 of The Code of Criminal Procedure,1973 for returning of **S.S.Pipe 100NB of 48 meters in total 08 pieces.**

02. The learned Assistant Public Prosecutor filed his say behind the present application. The Investigating officer filed his say vide Exh.06.

03. Heard the learned advocate for the applicant and the learned A.P.P. Perused the document filed along with list Exh. 04.

04. It has been submitted by the applicant that Police Station, Roha seized supra mentioned muddemal during the course of investigation in Crime No.167/2022 for the offence punishable under Section 379, 34 of the Indian Penal Code, 1860. He is ready to abide all the conditions which will be put by this Court while allowing the present application. Further, he is the project manager of CEPT, Dhatav MIDC. In support of his contentions, he filed on record original copy of authority letter issued by Evotech Hydro Pvt.Ltd in his favour, certified copies of FIR in Roha C.R.No.177/2022 and remand report dtd.08.09.2022 and photo copy of Tax Invoice.

05. The careful reading of say filed by the learned A.P.P. reveal that, he does not have serious objections for handing over seized muddemal to the applicant. The investigating officer has prayed to pass

necessary orders.

06. Prima-facie perusal of record reveals that **S.S.Pipe 100NB of 48 meters in total 08 pieces** appears to be owned by Evotech Hydro Pvt.Ltd. company, in which the applicant is holding post of project manager of Roha CETP Project. No any other person claimed the custody of the said muddemal except the applicant till today. The applicant produced necessary documents on record.

07. Further, till the time of decision of this case, if the same is remained in the custody of the Police Station, Roha then there are chances that it would get damaged.

08. On this point I would like to take the help of the observations of the Hon'ble Apex Court in the case of , “ **Sunderbhai Ambalal Desai Vs. State of Gujarat reported as 2003 SCC (Cri) 1943**”. The Apex Court by referring its previous judgment in case of “ **Basavva Kom Dyamangouda Patil Vs. State of Mysore (1977) 4 SCC 358** ” has re-produced para 4 of the said judgment as under:

“The object of the scheme of the various provisions of the Code appear to be that where the property, which has been the subject of an offence is seized by the police, it ought not to be retained in the custody of the court or of the police for any time longer than what is absolutely necessary. As the seizure of the property by the police amounts to a clear entrustment of the property to a Government servant, the idea is that the property should be restored to the original owner after the necessity to

retain it ceases.”

09. In view of the supra facts and circumstances and of the observations of the Hon'ble Supreme Court, I am inclined to grant the application, subject to following conditions.

ORDER

- 1) The application (Exh.01) is allowed.
- 2) The interim custody of **S.S.Pipe 100NB of 48 meters in total 08 pieces** seized by the Police Station, Roha in Crime No.167/2022 be handed over to the applicant on his executing indemnity bond of Rs. 1,10,000/- (Rs. One Lakh Ten Thousand only) containing the following conditions.
 - (a) The applicant shall not dispose off as well as he shall not change the nature of the said muddemal till the final decision of the present case.
 - (b) The applicant shall produce the said mudemal before this Court or before any other authority directed by the court, whenever required by the court at any point of time.
 - (c) Panchanama in detail at the time of handing over said muddemal be prepared by the Police.
 - (d) Appropriate photographs of said muddemal be taken at the expenses of the applicant by the investigating officer and be retained on record of this case.

- e) The present application and the entire instant proceeding be tagged alongwith final report/chargesheet which would be submitted in Crime No.167/2022 registered at Police Station, Roha.

Dated : 22/11/2022.
Place : Roha.

(S. S. Mahale)
Judicial Magistrate First Class,
Roha-Raigad.

CERTIFICATE

I affirm that the contents of this PDF file order are same word to word as per the original Judgment or Order.

Name of the stenographer	:- S.G.Padwal, Grade -III.
Name of the Court	:- C.J.J.D. & J.M.F.C. Roha,
Judgment / Order dictated on	:- 22/11/2022.
Judgment / Order delivered on	:- 22/11/2022.
Judgment / Order signed on	:- 22/11/2022.
Judgment / Order uploaded on	:- 23/11/2022.