

ORDER BELOW EXH.NO. 1

[Passed on 18/10/2022]

By this application, applicant namely Vijayanand Digambar Wavhale claimed back his vehicle Hero Splendor Plus Motor Cycle bearing registration No. MH-22-AX-7503. It is alleged that, the said vehicle is seized by Gangakhed Police in Crime No. 473/2022. The applicant needs the same for his daily use. If it is kept at Police Station, it may rust, damage and the applicant would suffer loss. The applicant is ready to abide by the conditions, if any. Hence, he prays for return of said motor cycle to him.

2- The say of I.O. and APP was called. APP has filed his say on overleaf of the application and submitted that, accused may use the seized vehicle in another crime. I.O., in his say submitted that, if said vehicle is return to the applicant, he will use the vehicle in another crime, he will not produce the vehicle before I.O. or Court when needed and will change its nature. Therefore, they prayed to reject the application.

3- Heard both sides at length. Perused documents. The verified copies of documents are available on record showing that, the applicant is owner of seized vehicle. Therefore, the applicant established his ownership over the vehicle in question. Therefore, there is no hurdle to anybody if the said vehicle is handing it over to the applicant. It is also true that if the vehicle is kept idle at the Police Station, it will certainly rust and damage. There is no reason to disbelieve that the applicant needs this vehicle for his day to day use. The ratio laid down in the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat** reported in **AIR 2003 SC 638** will also have to be kept in mind. It is therefore, just, proper and expeditious to return the vehicle to applicant, particularly when he has shown his ownership over the same. Ld. APP and the investigation officer have taken objection to hand over the custody of vehicle to the applicant but the applicant seek

interim custody of seized vehicle. There is no reason on record to reject the application. Further in order to secure the vehicle easily, if required, it is necessary to take some security from applicant and to impose some conditions. Hence, the order.

ORDER

- 1] Application is allowed.
- 2] The Police Inspector, Gangakhed is directed that, Hero Splendor Plus Motor Cycle bearing registration No. MH-22-AX-7503, Chasis No. MBLHAW126MHM88350 and Engine No. HA11EYMHMA4386 seized by them, in connection with Crime No. 473/2022 be returned to the applicant on executing 'Supurtnama' of Rs.1,00,000/- on following conditions :-
 - a) The applicant shall not use the vehicle in same crime or permit to use the same for any illegal purpose or in any manner likely to reduce its value;
 - b) He shall keep the vehicle in good running condition;
 - c) He shall not, in any way, transfer ownership of the vehicle to any third person and not change the nature of vehicle ;
 - d) He shall produce the vehicle before the Court and shall make it available to the Investigating Officer, as and when required.
- 3] Before release of vehicle, the I.O. shall take three colored photographs of the same, from different angles clearly displaying registration number and other particulars of the vehicle, shall be kept on record, at the expenses of the applicant and attach the same along-with charge-sheet.
- 4] The applicant shall execute the indemnity bond on stamp of Rs.100/- and handover it to the investigation officer of Cr. No. 473/2022 registered by Gangakhed, Police Station.
- 5] This order be informed to the I.O. of Police Station, Gangakhed.

Date – 18/10/2022.

(D.B.Gutte)
Judicial Magistrate First Class,
(Court No.1), Gangakhed.