

MHND190014802022

**Order Below Exh. 1 in O.M.C.A No.300/2022.**

Shabudin S/o. Shaikhlal Shaikh
Vs.
Police Station Sonkhed

This is an application filed under section 457 of Code of Criminal Procedure for return of property i.e. Ashok Leyland Company's Ashok Leyland Truck bearing No. MH-18-M-8135 seized by Sonkhed Police station Tq. Loha Dist. Nanded in Crime No. 141/2022 for offence punishable under section 279, 304-A of Indian Penal Code 1860.

2. That the applicant is the owner of the said Ashok Leyland Truck. The above said Ashok Leyland Truck was using by the applicant. Excise Dep. Degloor Tq. Degloor Dist. Nanded seized above said Ashok Leyland Truck in C.R. No.141/2022. Therefore, the applicant filed this application for getting custody of said Ashok Leyland Truck. The applicant further submitted that said Ashok Leyland Truck is lying in the Police Station as unattended condition and therefore possibility of it's damage by natural calamities cannot be ruled out. He submitted that, he is ready to abide all the conditions if any imposed by the Court. On these grounds, the applicant sought for return of the seized muddemal property.

3. Say of I.O and A.P.P was called. They have raised objection to return the said Ashok Leyland Truck to the applicant and submitted that if said truck given to the applicant, he may create third party interest and said truck is necessary for evidence. It is further

submitted that R.T.O. inspection of said truck is not till done.

4. Heard A.P.P for the State and Advocate for the applicant.

5. In the present case, applicant has filed the verified copy of his aadhar card and verified copy of R.C. book of said Ashok Leyland Truck. Perused the said document, it reveals that applicant is the owner of the Ashok Leyland Truck in question. Therefore, certainly being owner of Ashok Leyland Truck, he is entitled to get the possession of the Ashok Leyland Truck. Moreover, applicant has claimed for interim custody of the Ashok Leyland Truck. The point of final custody of Ashok Leyland Truck would be decided during the conclusion of trial. In such circumstances, applicant is entitled for the custody of Ashok Leyland Truck. If Ashok Leyland Truck remains idle at Police Station, then there is possibility of getting it damaged. No purpose will be served by keeping said Ashok Leyland Truck at Police Station. Moreover, it is not contention of I.O. that the seized Ashok Leyland Truck used as gaming instrument in alleged crime. So, there is no reason to refuse this application and more particularly in view of the dictum of Their Lordships of the Apex Court in the case of *Sunderbhai Vs State of Gujraht* reported in *(2003) 24 BCR (SC) 444* wherein it has been observed that, there is no used to keep seized property at police station for long period and appropriate orders should be immediately made regarding return of property by taking appropriate bonds as well as security for return of the property, if required at the time of trial. Therefore, I pass the following order :-

ORDER

1. Application is hereby allowed.

2. Interim Custody of seized Ashok Leyland Truck bearing No.MH-18-M-8135 Engine No.TPH502379,Chassi No. TPE637729 be given to the applicant namely, Chandrakant upon furnishing bond in sum of Rs. 12,00,000./- (Rs. Twelve Lac).
3. I.O. is hereby directed after furnishing bond to prepare detail proper panchanama of said Truck and take photographs of it and with condition to produce it at the time of trial, if required.
4. I.O is hereby directed to take sufficient photograph of said Ashok Leyland Truck with attention of applicant.
5. The applicant shall not sell, transfer the said Truck or he shall not create third party interest without prior permission of the Court and he shall not change the colour and nature of the Truck.
6. The applicant shall produce the said Truck before the police and the court as and when required.
7. Applicant shall satisfy future claimant, if any.
8. Issue letter to Police Station Sonkhed Dist. Nanded accordingly.
9. Application is accordingly disposed of.

Date : 15/10/2022.

**(Santosh L.Vaidya)
Judicial Magistrate, F.C.,
Loha, Dist. Nanded.**