

MHNG160011142022



ORDER (BELOW EXH.1)
(Passed on 20.12.2022)

Perused the application. The applicant has filed the present application under Section 457 of Criminal Procedure Code for interim custody of LMV Tractor bearing No. MH-40/BJ-9475, Engine No. 3105ELU93C831735F20 Chassis No. AZVSS834784S3 and LMV Trolley bearing No. MH-40/AM-2699, Chassis No. VLE5TTIP012016343 seized in Crime No. 147/2022 of P.S. Aroli. (Hereinafter referred to as seized vehicles).

2] The Learned A.P.P. filed say and contended that the seized vehicles are used for illegal transportation of sand without having any permission from Revenue Department. He further submitted that the stolen sand is government property under the control of revenue authority and therefore say of the revenue authority is important to call before deciding the application. He further submitted that the applicant has not filed necessary documents to prove his title over the seized vehicle. If the vehicles are released, there is no possibility of it being produced at the time of trial and there is possibility of creating third party interest and tampering. Hence, he prayed for rejection of the application. I.O. filed his say (Exh.4) and submitted that if the seized vehicles are released, there is possibility of committing similar kind of offence and tampering with vehicles. Hence, he prayed for appropriate order.

3] Say of Tahsildar is called. The learned Advocate for the applicant filed purshis (Exh.5) contending that he is submitting acknowledgement (Exh.6) of notice sent by the court to the Tahsildar, Mouda. Acknowledgement (Exh.6) shows that the Tahsil office, Mouda received the notice of this court on 29.11.2022, but till today did not file it's say. Therefore, the application is proceeded without it's say.

4] Perused the documents submitted alongwith the application i.e. verified copy of Registration Certificate of seized vehicle i.e. Tractor, copy of Insurance, verified copy of Registration Certificate of seized vehicle i.e. Trolley, copy of Insurance and verified copy of Adhar Card of applicant.

5] This court had called say of the Tahsildar, Mouda regarding confiscation proceeding about the sand seized with seized vehicle. But despite sufficient opportunity, the Tahsildar, Mouda failed to file it's say. Therefore, there is no record whether confiscation proceeding actually starts or not by Tahsil Office, Mouda. Therefore, no purpose would be served by keeping this application pending.

6] At this stage, except the applicant, nobody has claimed the seized vehicle. Moreover, considering the documents filed by the applicant as well as the say of Ld. APP for the State and the Investigating Officer, prima facie the claim of the applicant appears to be genuine. The applicant is registered owner of the seized vehicles. If the vehicles kept lying in the police station, the possibility of damaging its engine and parts cannot be ruled out. No prejudice is going to be caused to either side if interim custody of the seized vehicles is given to the applicant upon imposing appropriate conditions. Hence, I pass the following order:-

:- ORDER :-

1. The application is allowed.
2. The seized vehicles i.e. LMV Tractor bearing No. MH-40/BJ-9475, Engine No. 3105ELU93C831735F20 Chassis No. AZVSS834784S3 and LMV Trolley bearing No. MH-40/AM-2699, Chassis No. VLE5TTIP012016343 seized in Crime No. 147/2022 of P.S. Aroli be returned to the applicant on executing the indemnity bond of Rs. 8,00,000/- (Rupees Eight Lac only).
3. The applicant is directed not to change, sale, transfer or dispose of the seized vehicles till conclusion of trial.
4. The applicant shall produce the seized vehicles as and when directed by the I.O. and the court.
5. The Investigating Officer is directed to take colour photographs of seized vehicles at the costs of the applicant and produce it along with charge-sheet.
6. The Investigating Officer is directed to prepare detailed panchanama of seized vehicles before handing over it to the applicant.
7. The Investigating Officer is directed to return the seized vehicles to the applicant after proper verification.
8. Issue letter to Aroli Police Station accordingly.

Place : Nagpur
Date : 20.12.2022

(R.R.Sherekar)
Judicial Magistrate, First Class,
Mouda

Endorsement

Case argued on	:	20.12.2022
Order dictated on	:	20.12.2022
Transcription ready on	:	20.12.2022
Order checked and signed on	:	20.12.2022

CERTIFICATE

I affirm that the contents of this P.D.F. File are same word to word as per original judgment/Order.

NAME OF STENO :- MRS. M.D.SINGH (GR.III)