



Order below Exh.1

Abhinandan Mahale

V/s

State Through Pimpalgaon (B) Police Station

The applicant has presented this application u/s 457 of Criminal Procedure Code for seeking interim custody of Jupiter two wheeler motorcycle bearing registration No. MH-15-FP-0367, Chassis No. MD626BG44F1N46260 Engine No. BG4NF1746310 (hereinafter referred to as '**said vehicle**') seized in connection with C.R. No. 200/2022 of Pimpalgaon (B) Police Station.

2. It is submitted by the applicant that, he is the owner of said vehicle. On 28/08/2022 at 09.30 p.m. he parked the said vehicle in the parking shade of his house. At about 04.00 he did not find the said vehicle at his house. He made search of said vehicle. But he did not find the said vehicle. Hence, he filed complaint at Pimpalgaon (B) Police station vide C. R. No. 200/2022. During the investigation police seized said vehicle. The applicant is in need of said vehicle. The applicant is ready to abide by conditions imposed, if any, while releasing said vehicle. Therefore, this application.

3. Investigating Officer, Pimpalgaon (B) Police Station filed say alongwith copy of Panchnama at Exh. 05. The Investigating Officer

is having no objection to release the said vehicle on imposing terms and conditions.

4. By filing say at Exh.6 the learned APP for the State objected to hand over interim custody of said vehicle in favour of the applicant. It is submitted that, there is possibility of transferring or alienating the said vehicle. The possibility of changing the condition of the said vehicle cannot be ruled out. Hence, he prayed to reject the application.

5. The points for determination alongwith my findings thereon are as under -

P o i n t s

F i n d i n g s

- | | | |
|---|-----|---------------------|
| [1] Is the applicant entitled for interim custody of said vehicle pending the conclusion of the trial ? | ... | Yes. |
| [2] What order ? | ... | As Per Final Order. |

R E A S O N S

6. Heard the learned Advocates for both sides. Perused the record.

As to Point No.1 :

7. In support of contentions in the application, the applicant has filed his Affidavit at Exh. 4. Applicant has filed photocopy of F.I.R., Verified Copy of R. C. Book of said vehicle, Verified Copy of Adhar

Card, and Insurance policy along-with list Exh. 03.

8. The Investigating Officer has filed his say. On the perusal of say of the Investigating Officer, it appears that, Jupiter two wheeler motorcycle bearing registration No. MH-15-FP-0367, Chassis No. MD626BG44F1N46260 Engine No. BG4NF1746310 is seized in connection with C.R. No. 200/2022 for the offence punishable u/s 379 of Indian Penal Code by Pimpalgaon (B) Police Station. He is having no objection to release the said vehicle by imposing terms and conditions.

9. Applicant has filed Verified Copy of R. C. Book of said vehicle. On the said R.C. Book Jupiter two wheeler motorcycle bearing registration No. MH-15-FP-0367, Chassis No. MD626BG44F1N46260 Engine No. BG4NF1746310 is mentioned.

10. The Investigating Officer has filed copy of Panchnama. On the perusal of Panchnama, the abovementioned vehicle is seized. It is epochal to note that, uptill now no one else has claimed the seized vehicle. This shows that, there is no other claimant for the said vehicle other than this applicant. The material on record indicates that, said vehicle belongs to the applicant. No purpose would be served by keeping the seized vehicle in police station without proper care and caution. The applicant is ready to abide by conditions imposed, while releasing said vehicle. On the perusal of all documents filed by the applicant and matter on record, it reveals that, the applicant is entitled to have interim custody of the said vehicle.

11. In Sunderbhai Ambala Desai V/s State of Gujarat reported in AIR 2003 SC 638 it was held by the Hon'ble Apex Court that, "seized muddemal should be released as keeping it in open, could cause harm to the said muddemal".

12. The applicant is ready to abide by conditions, imposed if any. The said vehicle is seized in the said crime. It would certainly hamper its conditions. Therefore, the applicant is entitled to have interim custody of said vehicle. Accordingly, point no. 1 is answered in the affirmative.

As to Point No.2 :

13. In answer to this Point, following order is passed.

ORDER

- (1) The application stands allowed as under -
- (2) The Officer-in-charge of the Pimpalgaon (B) Police Station is directed to hand over interim custody of Jupiter two wheeler motorcycle bearing registration No. MH-15-FP-0367, Chassis No. MD626BG44F1N46260 Engine No. BG4NF1746310 is seized in connection with C.R. No. 200/2022 by Pimpalgaon (B) Police Station in favour of the applicant Abhinandan Tryambak Mahale after due identification and verification of the ownership documents.
- (3) The applicant shall furnish Bond/Supurtnama of Rs. 25,000/- (Rupees Twenty-Five Thousand Only).
- (4) The applicant shall undertake that he would not alienate

the said vehicle or change it's condition, in any way without permission of the Court.

- (5) The applicant shall produce two photographs of said vehicle signed by the applicant and counter signed by the investigating Officer on record. The applicant shall pay costs of the said photographs.
- (6) The Officer-in-charge of the Pimpalgaon (B) Police Station shall carry out detail panchanama of handing over delivery of said vehicle as per aforesaid directions.
- (7) Investigating Officer shall furnish Supurtnama, photographs and panchanama alongwith the chargesheet.
- (8) The true copy of the order be tagged with the chargesheet/final report, if any, submitted in C.R. No. 200/2022.
- (9) Inform concerned Police Station accordingly.

Date : 21/10/2022

(Shri. P. K. Kapade)
Judicial Magistrate First Class,
Pimpalgaon(B)