



ORDER IN CRI M.A. NO. 511/2022

Present application is filed by the applicant namely Maroti S/o Murlidhar Pachpunje for claiming the custody of Hero Motocrop Ltd company Motorcycle Model no. HF DELUXE (I3S SELF DRUM-CAST) bearing registration no. MH-22-AS-5346 having Chassis No. MBLHAR233J5M00215 and Engine No.HA11ENJ5M01062 **[Hereinafter it is referred to as “seized vehicle”]**.

2. As per the contention of applicant, in crime No. 269/2022, of State Excise Department, Parbhani police has seized the Vehicle. According to the applicant, he is owner and possessor of the seized vehicle. Applicant has dire necessity of seized vehicle for livelihood. The seized vehicle is kept in dump condition in police station premises. It will be damaged and became useless. Hence, he prayed to hand over the seized vehicle to him.

3. Per contra, learned APP and Investigating Officer strongly opposed the application. Learned APP and Investigating Officer submitted that, the seized vehicle is necessary in the trial for identification. If it is released then there is possibility of alter, change or sale of seized vehicle. They have prayed for rejection of the application.

4. To substantiate the contentions raised in the application,

applicant has filed his affidavit. He has filed on record photocopy of vehicle particulars of seized vehicle, verified copy of his Aadhar Card, Certified copy of F.I.R. and verified copy of Insurance of seized vehicle. Importantly, the Investigating officer and learned A.P.P. have not challenged the ownership of applicant over the seized vehicle. On the perusal of matter on record, it prima-facie appears that, the applicant is owner and custodian of seized vehicle.

5. In Sunderbhai Ambala Desai V/s State of Gujrat 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".

6. It is pertinent to note here that, the applicant has shown his entitlement over the seized vehicle. No purpose would be served by keeping the seized vehicle in this crime in police station. Moreover, the trial of the said offence would not be concluded in near future. As per panchnama approximate value of seized vehicle is Rs.60,000/- and if it is lying in such condition then possibility of the damage to the seized vehicle cannot be ruled out. Looking into the nature of the seized vehicle, it will be generated or loss it's worth and value. Thus, it would be proper to release the seized vehicle on certain conditions. Accordingly, I Proceed to pass following order.

ORDER

1. Application is allowed subject to following conditions.
2. The seized Hero Motocrop Ltd company Motorcycle Model no. HF DELUXE (I3S SELF DRUM-CAST) bearing registration no. MH-22-AS-5346 be handed over to the applicant till the conclusion of trial after executing indemnity bond of Rs. 60,000/- before Concern Police Station.

3. The State Excise Department, Parbhani, Dist. Parbhani or the Investigating Officer is directed to take two appropriate colour photographs of seized vehicle at the costs born from the applicant and shall prepare detail panchnama and submit the same along with the charge sheet.
4. The photographs of seized vehicle must be attested and countersigned by P.S.O./Investigating officer, informant, accused and applicant.
5. The applicant to undertake that he shall not sell or transfer the seized vehicle without prior permission of the court.
6. The applicant is hereby directed to get insured seized vehicle, if not insured and submit the copy before Investigating Officer.
7. The applicant is to preserve and maintain the seized vehicle in all respects.
8. The applicant shall not use the Vehicle in commission of any offence.
9. The applicant shall produce the seized vehicle in the court as and when directed.
10. R and P of this proceeding be tagged with concerned case whenever filed.
11. Inform the concerned officer.

Date: 21.10.2022.

(Smt. S.N. Hurgat)
Judicial Magistrate First Class,
(Court No.3), Parbhani.