

MHST030035662022



ORDER BELOW EXH.01 IN CRI. MISC. APPLN. NO.858/2022
Swapnil Chikane Vs. State

The present application is filed by applicant/accused – Swapnil Sunil Chikane for return of seized muddemal property i.e. Honda Shine Motorcycle No. MH-11-DB-0014 having chassis No. ME4JC856BMG087511 and Engine No. JC85EG0257779 u/s 457 of the Code of Criminal Procedure.

2] The brief facts of the applicant's application are as under :-

The applicant contended that the police officers has seized moped/motorcycle No.MH-11-DB-0014 in CR No.240/2022 of Excise Office. The seized vehicle is of his daily use. If the seized vehicle lied at police station, its parts like, engine, tube, tyre, etc. will be damaged. He is ready to abide by the terms and conditions, if any imposed by the Court while releasing the seized property. Therefore, the applicant prayed to release the said seized property to his custody. Hence, the application.

3] The APP filed say on the same application and contended that if the seized vehicle is returned to the applicant, he will make changes in it and possibility of alienation so also he will not follow the contentions raised in the application.

4] The I.O. has filed his say at Exh.5 and resisted this application. As per his say, the offence filed against accused is u/s 65(a)(e) of the Bombay Prohibition Act and there is decision in Cri. Revision Appln. No.156/93 of Apex Court, not to release the seized vehicle when the said vehicle is used for carrying illegal liquor. The owner of the said vehicle is Swapnil Sunil Chikane i.e. the applicant and the accused was used the said vehicle at the time of committing of offence. The charge-sheet is yet to be filed in the Court and at the time of evidence, the vehicle is necessary to produce. If the seized vehicle returned to the applicant, he will again use the said vehicle for the same offence. Hence, he prayed not to

release the said vehicle to the applicant.

5] I have heard advocate Shri. V.V.Deshmukh for the applicant and A.P.P. Smt. Pathan for the State. I have also perused documents on record, viz. certificate of registration of seized vehicle, copy of FIR and copy of Aadhar card of applicant.

6] On perusal of FIR shows that Honda Shine Motorcycle No.MH-11-DB-0014 is seized from the possession of accused. The say of I.O. shows that the applicant Swapnil Sunil Chikane is the owner of the said vehicle. The certificate of registration shows that the seized vehicle stands in the name of applicant. It means the applicant is registered owner of seized vehicle. If the seized vehicle remained for longer period at police station, its parts like engine, tyre, tube, etc. will be out of order. Moreover, the seized vehicle is of daily use of the applicant. Therefore, considering the facts of the case and the documents placed on record, the applicant is entitled for return/release of seized vehicle. Hence, I proceed to pass following order.

ORDER

- 1] The PSO Excise Office police station, Wai is directed to return / release muddemal property i.e. Honda Shine Motorcycle No. MH-11-DB-0014 having chassis No. ME4JC856BMG087511 and Engine No. JC85EG0257779 to the custody of applicant- Swapnil Sunil Chikane.
- 2] The applicant to furnish Indemnity Bond of Rs.1,00,000/-.
- 3] The applicant shall not change nature of seized muddemal property in any way without permission of the Court.
- 4] The applicant shall not alienate the seized muddemal property without permission of the Court.
- 5] The I.O. is directed to prepare the panchanama of the vehicle, its condition and also to take two photographs, which should be attested and counter-signed by the applicant and I.O.
- 6] The applicant is directed to produce the seized muddemal property before the Court as and when required.

Satara
Date : 17/10/2022

(P.P.Naigaonkar)
Chief Judicial Magistrate, Satara.