

MHAH010058642024



**Order below Exh.2 in Sessions Case No.253/2024.**

**(The State of Maharashtra...Vs... Dhanya @ Danish Shaikh and Ors.)**

By way of this application, the **applicant/third party- Farukh Maheboob Shaikh** is seeking interim custody of vehicle two wheeler of Bajaj auto Ltd Company, Pulsar 150 DTSI, Motorcycle having registration No. MH-16-BS-3585 which is having Chassis No. MD2A11CZ9GWF38868 and Engine No. DHZWGF07589 seized in crime No.I- 541/2024 registered with Tophkhana Police Station for the offences under Sections 307, 336, 324,143, 147, 148, 149 of Indian Penal Code and Sections 3 and 4 of the Indian Arms Act and Section 37(1)(3) of the Mumbai Police Act.

2- Applicant submitted that, he is owner of the said vehicle. He is in need of the vehicle for his personal use. If the said vehicle is kept in the police station ideal, condition of the vehicle will be deteriorated and vehicle be damaged due to the environment. He is ready to keep it in proper condition and will produce whenever required during the course of trial. Therefore, he submitted that application be allowed and said vehicle be released on indemnity bond on his interim custody.

3- Say of the Ld. APP was called. Ld. APP filed say vide Exh.15 and strongly opposed the application. They submitted that if said vehicle is released, he may damage, destroyed or alienate the vehicle. He will not remain present for trial and repetition of the same offence. Hence, prosecution strongly opposed the application for releasing the vehicle.

4- Heard Ld. Adv. Shri. R.N. Baig appearing for the applicant/third party and Ld. APP Shri. S.K. Patil for the State. Perused

the documents and submissions of both sides.

5- For the purpose of investigation the police had seized the vehicle by proper procedure and now the vehicle is not required to be kept in the custody of the prosecution as investigation has been completed and charge-sheet is filed. Question of identification of the vehicle will not arise. Further keeping the vehicle un-used and ideal in condition will cause loss, damage to the vehicle along with its spare part, engine and will deteriorate the condition day by day.

6- As per the documents placed on record, xerox copy of R. C. Book shows vehicle is in the name of applicant/third party. As per copy of R.C. Book, applicant /accused is owner of the vehicle. The applicant is permanent resident of Ahmednagar. Therefore, presence of the applicant along with the vehicle can be secured, if required during the course of further investigation and trial. Question of tampering of self owned vehicle by the applicant will not arise, on the other hand conditions imposed for releasing the vehicle on indemnity bond will keep it in proper state.

7- As such, in view of the directions of the Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai...VS...State of Gujrat 2002 (10) SCC 283= AIR 2003 SC 638 and General Insurance Council...Vs. State of A.P. 2010 (6) SCC 786**, by giving following directions to the investigating officer the above seized vehicle needs to be released on Supurtnama of the applicant on executing on indemnity bond of Rs. 1,00,000/- along with terms and conditions that he should not transfer, sale, alienate or disposed of the vehicle till conclusion of the trial. The concern investigating officer is directed to comply the following conditions prior to release of the vehicle. Hence, application is allowed subject to

following terms and conditions.

**Order**

- 1- Application at Exh.2 is allowed.
- 2- The concern I.O. attached to Tophkhana Police Station is hereby directed to hand over the interim custody of two wheeler of Bajaj Auto Ltd Company, Pulsar 150 DTSI, Motorcycle having registration No. MH-16-BS-3585 which is having Chassis No.MD2A11CZ9GWF38868 and Engine No. DHZWGF07589 seized in crime No.I- 541/2024 registered with Tophkhana Police Station to applicant on execution of indemnity bond of Rs.1,00,000/- (One Lakh Only).
- 3- Officer-in-charge of Tophkhana Police Station, or Investigating Officer is hereby directed to prepare detail Panchnama of the seized the vehicle and snap the photographs of the vehicle at the costs of the applicant and forward the same to the Court.
- 4- The applicant is directed not to transfer, sale, alienate or dispose of the vehicle till conclusion of the trial by any means or mode.
- 5- The applicant shall not change the nature of vehicle nor make any alteration therein.
- 6- The applicant shall produce the vehicle as and when required by the Court.
- 7- Inform concerned police station.
- 8- Application Exh.2 stands disposed of accordingly and be kept along charge sheet in Sessions Case No. 253/2024, C.R.No. I- 541/2024 registered with Tophkhana Police Station.

Date : 03<sup>rd</sup> December, 2024.

( C.M.Bagal )  
Additional Sessions Judge,  
Ahmednagar. JO Code-MH00070.