

MHAH130010332019



Sessions Case No. 40 / 2019
State V/s. Rajendra Bansi & Ors.

Order below Exh.4 :-

1] This is an application under section 457 of Code of Criminal Procedure preferred by the accused no.2 to released this seized muddemal property Bajaj Discover Motorcycle bearing no. MH-17-BG-9869, its chasis no. MD2A57AZ9EWH00449 & Engine No. PAZWEH98398, during the pendency of trial of the crime vide CR.No. I 332 / 2019 registered with Newasa Police Station, Tal. Newasa, Dist. Ahmednagar for the offence punishable under section 302, 201, 176, 506, r/w 34 of the Indian Penal Code.

2] Perused the application, grounds, reasons, causes asserted raised therein. Also perused the record, copy of Adhar Card of accused, copy of RTO information list of Bajaj Discover Motorcycle bearing no. MH-17-BG-9869, in which name accused no.2 is described as owner and tax invoice. Heard Ld. Advocate Shri B. R. Busari for the accused no.2.

3] The Respondent / State has submitted their say below Exh.10 dated 28.1.2020. Heard Ld. APP M. R. Nawale for the Respondent / State.

4] Upon taking into consideration the relevant facts, circumstances availed material and rival submission, thereby it revealed that against the accused no.2 Rajendra Bansi Autade, the impugned crime has been registered on 22.05.2019. Allegedly while committing the said crime, the accused no.2 has used the Bajaj Discover Motorcycle bearing no. MH-17-BG-9869. The same has been seized as involved muddemal article of the said crime. As per that he has requested to released his seized Bajaj Discover Motorcycle bearing no. MH-17-BG-9869 during the pendency of trial. He further submitted that the said motorcycle is required for his routine works and other purpose. The said motorcycle is retained in open yard of the police station without taking any care

and caution. Thereby due to unused and retaining the said motorcycle without any precaution certainly irreparable damages could be cause to it. He also submitted that he is ready to execute the necessary bond and abide to follows all conditions which ever saddled. On relying such submissions requested to release his seized Bajaj Discover Motorcycle bearing no.MH-17-BG-9869 on appropriate conditions and execution of bond.

5] The respondent / Stae as well as investigating officer have submitted that the accused has not submitted required essential documents of the ownership of seized vehicle and if the seized vehicle will be release in the circumstance the same could not produce before the court when required, as well as possibility to alienate, sell or transfer of the same. Therefore the plea of accused is required to be rejected.

6] In the aforestated circumstances it reveals that the impugned Bajaj Discover Motorcycle bearing no. MH-17-BG-9869 has been seized on 22.05.2019 in impugned crime. The copy of RTO information list seized vehicle is indicating that the same is in the name of owner as Rajendra Bansi Autade. By it clarifying that, the accused no.2 is owner of the seized motorcycle. Further considering the submission of accused that since long the seized motorcycle is retained in open yard of the police station, without taking any care and caution. Thereby possibility to caused damage to it. In such submissions I have inclined certain sum and substance, force, considerability and reliability. As the respondent / State and I.O. have not raised any strong, explanation, clarification with regard to the said factum. Thus in the circumstances it crystallized that certainly the seized Bajaj Discover Motorcycle bearing no. MH-17-BG-9869 is required to be released with the accused during the pendency of trial but subject to following and abiding conditions by the accused no.2. Hence I am inclined to release the seized muddemal property Bajaj Discover Motorcycle bearing no. MH-17-BG-9869 in the custody of accused no.2 during the pendency of trial subject to following conditions by him. With this passed the following Order :-

ORDER

1] The application below Exh.4 is hereby allowed subject to following conditions by the accused no.2 :-

2] The interim custody of seized Muddemal property Bajaj Discover

Motorcycle bearing no. MH-17-BG-9869 its chasis no. MD2A57AZ9EWH00449 & Engine No. PAZWEH98398 seized in crime CR.No. I 332/ 2019 dated 22.05.2019 registered with Newasa Police Station, Tal. Newasa, Dist. Ahmednagar for the offence punishable under section 302, 201, 176, 506, r/w 34 of the Indian Penal Code be given in custody of the accused no.2 Rajendra Bansi Autade, R/0 Babulkhede, Tal.Newasa, Dist. Ahmednagar on execution of undertaking and indemnity bond of Rs.80,000/- (Rs. Eighty Thousand only).

3] The accused no.2 is hereby directed that he shall not transfer, alienate, sell or create any third party interest right over the seized Bajaj Discover Motorcycle bearing no. MH-17-BG-9869 until the conclusion of the trial of the crime of seized vehicle.

4] The accused no.2 further directed that he shall not make any alteration, changes, modification in colour, structure, engine or any part of seized Bajaj Discover Motorcycle bearing no. MH-17-BG-9869 until the conclusion of the trial.

5] The accused no.2 is also directed that he shall not used or involved the said Bajaj Discover Motorcycle bearing no. MH-17-BG-9869 in any crime during the pendency of trial.

6] The accused no.2 is also directed that he shall produced the said muddemal property Bajaj Discover Motorcycle bearing no. MH-17-BG-9869 whenever directed and ordered by the court, I.O. or PSO of Newasa Police Station, without fail.

7] The I.O. is hereby directed that prior to hand over the custody of motorcycle he shall take appropriate required legible clear photographs of the seized Bajaj Discover Motorcycle bearing no. MH-17-BG-9869 vehicle from various and requisites angles and also recorded the exhaustive, detail, vehicle seizure panchanama of said muddemal property, if the same is not recorded. The snapped photographs alongwith seizure panchanama of said seized muddemal property if recorded be submitted with the final report of the said crime.

8] The I.O. / PSO Newasa Police Station is also directed that the seized

muddemal property Bajaj Discover Motorcycle bearing no. MH-17-BG-9869 be given as in interim custody to the said accused, upon taking the indemnity bond of above mentioned amount alongwith expressed and written undertaking to abide the all conditions saddled and asserted in this order. After obtaining the indemnity bond and undertaking the same be submitted with the final report.

9] The accused no.2 is directed to make necessary compliance and furnishing the indemnity bond, without fail.

10] Accordingly informed to the concern IO. and PSO of concern police-station by sending the copy of this order.

11] Dictated and pronounced in open court.

Date : 28.01.2020

(S. M. Tapkire)
Additional Sessions Judge,
Newasa-Ahmednagar