

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,

PATUR

(PRESENT: S. B. MORE, JUDICIAL MAGISTRATE FIRST CLASS)

CRIMINAL MISC. APPL. NO. 79 OF 2026

:: ORDER ::

(Delivered on 09th day of July, 2026)

BELOW EXH – 01

Vitthal Mahadev Mahore

Age – 35 Yrs., Occ. – Agriculturist,

R/O – Tamashi Post. Batwadi

Tq. Balapure Dist. Akola.

..... **Applicant**

Versus

State of Maharashtra

Through – Police Station, Channi

Tq. Patur Dist. Akola.

..... **Opponent**

- 1) Perused the application and documents filed along with it. The application is supported by the affidavit of the applicant.
- 2) Ld. A.PP has filed his say, he submitted that, the seized muddemal i.e. vehicle - Hero Motocorp Ltd., HF DELUXE BLK DRS Registration No. MH-30-BS-3780, Engine No.- HA11E1P9A00827 and Chasis No.MBLHAW139P9A60976 allegedly, used in the crime, However, Ld. APP stated that, applicant might be use these vehicle in the same type of crime if the interim custody of the seized muddemal i.e., vehicle - Hero Motocorp Ltd., HF DELUXE BLK DRS Registration No. MH-30-BS-3780, Engine No.- HA11E1P9A00827 and Chasis No.MBLHAW139P9A60976 allegedly is hand over to him. Hence, he prayed for reject the application.
- 3) Upon service of notice, the investigator, he has filed his say at Exh.- 05, he submitted that, the vehicle seized in the C. R. No. 169/2026, for offence punishable under section 137(2) of BNNS the accused used said vehicle in the offence, it might possible accused may use again said vehicle in the another crime, if interim custody

handed over to him. He may be changing the nature of property, or sell the property, he may be destroying the prosecution evidence, therefore, he prayed for reject the application.

4) The applicant has filed verified copy of Registration Certificate, copy of first information report, verified photo copy of his Aadhar card along with list of documents at Exh. -03.

5) Upon perusal of copy of Registration Certificate, it seems that, the applicant is owner and possessor of seized i.e., vehicle-Hero Motocorp Ltd., HF DELUXE BLK DRS, Registration No. MH-30-BS-3780, Engine No.- HA11E1P9A00827 and Chasis No. MBLHAW139P9A60976. The ownership and possession of vehicle is undisputed. The said vehicle is involved in the crime which is for the offence punishable under section 137(2) Bhartiya Nyay Sanhita-2023. Simpliciter, by virtue of section 503 of the BNSS, 2023 it is only the Magistrate who could have passed the order regarding interim custody of the vehicle by no stretch of imagination can such jurisdiction be said to have been ousted. I also relied in following case laws.

General Insurance Council & Ors V/s. State Of Andhra Pradesh & Ors , reported in (2010) 6 SCC 768, wherein Hon'ble Supreme Court of India held that,

*“In our considered opinion, the aforesaid information is required to be utilized and followed scrupulously and has to be given positively as and when asked for by the Insurer. We also feel, it is necessary that in addition to the directions issued by this Court in **Sunderbhai Ambalal Desai (supra)** considering the mandate of Section 451 read with Section 457 of the Code, the following further directions with regard to seized vehicles are required to be given.*

A) *Insurer may be permitted to move a separate application for release of the recovered vehicle as soon as it is informed of such recovery before the Jurisdictional Court. Ordinarily, release shall be made within a period of 30 days from the date of the application.*

B) **The necessary photographs may be taken duly authenticated and certified, and a detailed panchnama may be prepared before such**

release.

C) *The photographs so taken may be used as secondary evidence during trial. Hence, physical production of the vehicle may be dispensed with.*

Insurer would submit an undertaking /guarantee to remit the proceeds from the sale/auction of the vehicle conducted by the

Insurance Company in the event that the Magistrate finally adjudicates that the rightful ownership of the vehicle does not vest with the insurer. The undertaking/guarantee would be furnished at the time of release of the vehicle, pursuant to the application for release of the recovered vehicle. Insistence on personal bonds may be dispensed with looking to the corporate structure of the insurer."

"It is a matter of common knowledge that as and when vehicles are seized and kept in various police stations, not only they occupy substantial space of the police stations but upon being kept in open, are also prone to fast natural decay on account of weather conditions. Even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than fifteen days. Apart from the above, it is also a matter of common knowledge that several valuable and costly parts of the said vehicles are either stolen or are can cannibalized so that the vehicles become unworthy of being driven on road. To avoid all this, apart from the aforesaid directions issued hereinabove, we direct that all the State Governments/ Union Territories/Director Generals of Police shall ensure macro implementation of the statutory provisions and further direct that the activities of each and every police stations, especially with regard to disposal of the seized vehicles be taken care of by the Inspector General of Police of the concerned Division / Commissioner of Police of the concerned cities / Superintendent of Police of the concerned district."

In Sunderbhai Ambalal Desai v/s. State of Gujrat reported in AIR 2003

SC 638 *Wherein Hon'ble Apex Court observed in para 7 as under: -*

"7. In our view, the powers under Section 451 Cr. P. C. should be exercised expeditiously and judiciously. It would serve various purposes, namely:

- 1) owner of the article would not suffer because of its remaining unused or by its misappropriation;
- 2) court or the police would not be required to keep the article in safe custody;
- 3) if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail;
- 4) *this jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles."*
- 5) *To safeguard the interests of the prosecution, it was directed that following measures should be adopted giving instances contained in para 12 reproduced hereinbelow:*

"12. For this purpose, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:

- 1) preparing detailed proper panchnama of such articles;
- 2) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and after taking proper security."

"7. While dealing with the seized vehicles from time to time by the police either in commission of various offences or abandoned vehicles or vehicles which are recovered during investigation of complaint of thefts, the court observed as under: -

"In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders

immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by a third person, then such vehicle may be ordered to be auctioned by the court. If the said vehicle is insured with the insurance company, then the insurance company be informed by the court to take possession of the vehicle which is not claimed by the owner or a third person. If the insurance company fails to take possession, the vehicles may be sold as per the direction of the court. The court would pass such order within a period of six months from the date of production of the said vehicle before the court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared."

06) In view of directions given in above case laws, no purpose would be served in keeping the seized vehicle- i.e. Hero Motocorp Ltd., HF DELUXE BLK DRS Registration No. MH-30-BS-3780, Engine No.- HA11E1P9A00827 and Chasis No. MBLHAW139P9A60976 lying in the police station as stationary.

07) Applicant is owner and possessor of seized muddemal i.e., vehicle- Hero Motocorp Ltd., HF DELUXE BLK DRS Registration No. MH-30-BS-3780, Engine No.- HA11E1P9A00827 and Chasis No.MBLHAW139P9A60976. The possibility of the damage to the property cannot be ruled out, if kept lying in the police station. even though well condition vehicle may damage within 15 days or lost their value, if kept it stationary. The trial would not be concluded in the near future. Furthermore, the applicant filed his affidavit that, the confiscations proceeding has not initiated against revenue authority. Even though notice for confiscations is not issued to

applicant. under such circumstances, magistrate has no bar to exercise the jurisdiction under section 503 of the Bhartiya Nyaya Sanhita, 2023.

08) Upon perusal of Registration Certificate, the seized *muddemal* i.e. vehicle- Hero Motocorp Ltd., HF DELUXE BLK DRS, Registration No. MH-30-BS-3780, Engine No.- HA11E1P9A00827 and Chasis No. MBLHAW139P9A60976 has value of ₹- 80,000/- (In words ₹- Eighty thousand only) Considering the price of vehicle, it is just and proper to handover interim custody of said seized property on indemnity bond of ₹- 80,000/- (In words ₹- Eighty thousand Five hundred only).

09) As the applicant has shown his prima facie possession over the seized property, he is entitled for the interim custody /possession of the same. In the result, I passed the following order.

:: ORDER ::

- 1) The application is allowed.
- 2) The interim custody of seized property i.e. vehicle- Hero Motocorp Ltd., HF DELUXE BLK DRS, Registration No. MH- 30-BS-3780, Engine No.- HA11E1P9A00827 and Chasis No.MBLHAW139P9A60976 be handed over to the applicant **Vitthal Mahadev Mohore** till the conclusion of trial *subject to his furnishing personal Recognizance for an amount of ₹- 80,000/- (In words ₹- Eighty thousand only)*, subject to following conditions.
- 3) He shall produce the property as and when directed by the court during the course of the trial.
- 4) The applicant should undertake that, he shall not sell, alter or transfer in any manner, the above seized property without the prior permission of the court.
- 5) The applicant should maintain and preserve the property in

all respects.

- 6) The applicant shall also furnish the photograph of seized property.
- 7) The applicant shall also furnish the photograph of seized property.
- 8) The concern investigator is directed to prepare detailed *Panchnama* while handover the property along with latest photographs of the property.
- 9) The Investigator is directed to submit Indemnity Bond along with charge sheet of C. R. No. 169/2026.

Place: Patur
Date: 09/07/2026

(Sandip B. More)
Judicial Magistrate First Class
Patur (Court No. 02)