

MHAM010017792026
Sessions Case No. 123/2026
State Vs. Mukesh

Order Below Exh. 4

1. This is an application for release of E-bike two wheeler OLA bearing No. MH-27-ED-6390 and Mobile POCO C55 (COOL BLUE,128) in favour of the applicant/accused. The mobile was seized in connection with Sessions C. No. 123/2026, registered at Chandur Rly. Police Station, for alleged offences punishable under Sections 109, 352, 351(2) of the Bharatiya Nyaya Sanhita, 2023 .
2. The applicant contends that the E-bike and mobile are lying in the Police Station, which may cause deterioration and permanent damage. He undertakes not to alienate, encumber or change the identity of the two wheeler as well as the mobile and agrees to produce them before the Court or the Investigating Officer as and when required. He is also willing to abide by all terms and conditions imposed by the Court.
3. I have considered the application; the documents placed on record and heard the submissions of learned counsel for the applicant as well as the learned Assistant Public Prosecutor Shri. D.M.Ambalkar. The ownership documents show that the applicant is the registered owner of the said E-bike and the mobile.
4. Investigating Officer filed say and requested to pass suitable order.
5. On perusal of the FIR, it appears that the offences are registered against the accused. The allegation is that the accused has assaulted brother of the informant with knife on his neck, abdomen, back and arm and caused serious injuries. The mobile and E-bike, thus, form part of the case property. However, merely because the vehicle and

mobile is case property, it does not mean it should indefinitely remain in the police station premises. That also does not mean that when a vehicle and mobile device forms crucial evidence, it should be handed over to the accused. The application was filed claiming custody of the property. No statement is made by the IO that whether or not the vehicle and mobile form crucial evidence against the accused to bring home his guilt qua the factual matrix in the case.

6. The Hon'ble Supreme Court in *Sunderbhai Ambalal Desai v. State of Gujarat*, (2002) 10 SCC 283, has laid down that seized vehicles should not be allowed to remain at police stations for long periods, as they not only occupy space but also deteriorate and lose value. The Court observed that such property should ordinarily be released to the owner on proper terms and conditions, subject to production when required.

7. In *General Insurance Council v. State of A.P.*, (2010) 6 SCC 768, the Hon'ble Supreme Court reiterated that vehicles involved in offences should not be allowed to rot in police custody and directed Magistrates to exercise powers under Sections 451 and 457 CrPC promptly to release vehicles on supratnama to the rightful owner.

8. Similarly, in *Basavva Kom Dyamangouda Patil v. State of Mysore*, (1977) 4 SCC 358, it was held that the Court has a duty to pass appropriate orders for custody and disposal of property so that unnecessary hardship or loss to the owner is avoided while safeguarding the interest of justice.

9. The Hon'ble Bombay High Court, in *Smt. Shantabai v. State of Maharashtra*, 2008 Cri LJ 2107 (Bom), has emphasized that vehicles should be released to the owner on proper condition, since keeping them at police stations serves no useful purpose and only results in damage.

Ownership decision, *Santosh s/o Kisan Patil v. State of Maharashtra*, 2019 SCC OnLine Bom 317, the Hon'ble Bombay High Court reiterated the principle that ownership documents, such as RC book and insurance papers, are sufficient to prima facie establish ownership for the purpose of interim release.

10. Reference may also be made to *Manjit Singh v. State of Gujarat*, (2015) 1 SCC 593, where the Hon'ble Supreme Court once again underscored that seized vehicles should not be kept idle at police stations and must be released to avoid loss of utility and depreciation, provided adequate safeguards are taken.

11. Applying the above settled principles to the present case, it is clear that:

- I. The ownership of the applicant is *prima facie* established through the registration certificate and ownership documents produced on record.
- II. The allegations in the FIR pertain to use of the vehicle in the alleged offence, but their evidentiary value can be safeguarded through photographs, panchnamas, and bonds.
- III. The trial is likely to take considerable time; retaining the vehicles in open custody at the police station will only result in deterioration and loss of value.
- IV. No fruitful purpose will be served by keeping the vehicle and mobile in police custody when their production can be secured at any stage by imposing strict conditions.

12. Therefore, in light of the law laid down by the Hon'ble Supreme Court and the Bombay High Court, this Court finds it just and proper to release the E-bike Ola and mobile to the applicant with suitable

safeguards.

ORDER

1. The application is allowed.
2. Pending hearing and final decision of the trial, following vehicle and mobile shall be released in favour of the applicant, subject to conditions:

Two Wheeler Ola bike bearing No. MH-27-ED-6390

and

Mobile POCO C55(COOL BLUE,128)

3. The applicant shall execute a (indemnity bond) supurtnama of ₹ 1,00,000/- (Rupees One Lakh only) for the two wheeler Ola and mobile, binding himself to produce the aforesaid properties before this Court as and when called upon to do so.
4. The applicant shall not sell, transfer, dispose of, or create any third-party interest in respect of the aforesaid vehicle and mobile until the conclusion of the trial.
5. The applicant shall produce the vehicle and mobile before the prosecution or the Court whenever required during investigation or trial.
6. Prior to release, the Investigating Officer, if still believes that there is some evidential value either to the mobile device or data stored therein or transmitted therefrom, he shall obtain image of the data as matter of precautionary measure by

following proper SOP. If necessary, he shall ensure to obtain all the logs or image of the data in the device or memory card which in his opinion may bear evidentiary value. He shall take clear photographs of the mobile and prepare a detailed panchanama, which shall form part of the record, and the same shall be forwarded along with the charge sheet. The hash value/md5 check sum of the data image may be informed to the accused while handing over the mobile device.

7. **The applicant accused is precluded from raising defence that primary evidence in the form of original mobile device is not produced before the Court towards proof of electronic evidence stored or transmitted through the mobile device so handed over to the applicant. He shall not object during the trial that original mobile device is either produced or preserved, as it should have been. The applicant shall file undertaking the same. The APP shall point out this undertaking by the accused, during the trial, if any such objection as to authenticity of data or primary device is raised by the defence.**
8. The Investigating Officer, without fail, shall ensure compliance of the above conditions before handing over mobile to the applicant.

Dt.30.07.2026

(Yashwant A Goswami)
Additional Sessions Judge,
Amravati