


MHAU110003072026 	<u>Order below Exh.No.1 in Cri.M.A. No. 31/2026. Imran Shah Vs. State of Maharashtra.</u>
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This is an application filed by the applicant under section 503 the B.N.S.S. of 2023 for the custody of seize MAHINDRA & MAHINDRA LIMITED BOLERO PICK UP CMP SC XL BS3- MH-20-DE-1843, Chassis No. MA1ZN2GHKE1K74506 & Engine No. GHEIK57068. This application filed by the applicant Imran Ismaile Shah as registered owner of seized vehicle. It is the contention of the applicant that said vehicle seized by Police Station Phulambri in crime No. 71/2026 for the offence punishable under Section 11(1) (d) , Prevention of cruelty to Animal Act 1960 R/w 5 A (1), 9 A Maharashtra Animal Preservation Act 1976.

2. The applicant further submitted that, seized vehicle is only earning source of the applicant and his family. He has no any other source except seized vehicle. He further contended that, he is ready to abide all the conditions impose by the court and the value of the vehicle is Rs. 5,00,000/-. The applicant is ready to execute the supratnama bond of the said amount and shall abide by all conditions if any imposed by this court.

3. That, the applicant has produced verified copy of R. C. book of the vehicle, Copy of Aadhar Card, Copy of insurance policy and copy of F.I.R.. From the documents filed by the applicant, it appears that, the applicant is owner of said vehicle. In case of not returning the same to the applicant, it would lay idle at the police station. Same will cause the damage of vehicle

4. Learned APP filed say on Exh.1 and strongly opposed the said application and prayed for rejection of said application.

5. I.O. filed say and submitted that, accused was transporting two Bulls, one Cow and one Calf illegally in the said vehicle. The said animal were transporting for slaughtering purpose. If the vehicle handed over the the accused he will again transport the animals with illegal manner. Hence, I.O. prayed for appropriate order on instant application.

6. Matoshree Paregabai Jadhav Gaushala Pal (Hereinafter referred to as Gaushala) appeared in this proceeding as intervener and filed its say at Exh. 6 with contention that, Gaushala is a registered trust which is engaging in looking after welfare of the cows and its progenies, their prevention and protection particularly the seek, dumb, old cattle which are usually left by villagers to die and which are rescued by police from illegal slaughter house butcher. Said Goshala prayed for permanent custody of the said bullocks and also prayed to not to handover the custody of said vehicle to the applicant.

7. The Ld. APP for the State has placed his reliance on :-

1. **Shri. Chatrapati Shivaji Gaushala Vs State of Maharashtra and Others, SSC Online SC 1402**, Wherein Hon'ble Apex Court observed that, The Magistrate has discretion to hand over interim custody of the animal to a pinjrapole but he is not bound to hand over custody of the animal to pinjrapole in the event of not sending it to an infirmary. In as case where the owner is claiming the custody of the animal the pinjrapole has no preferential right. In deciding whether the interim custody of the animal be given to the owner who is facing prosecution, or to the pinjrapole guidelines have been given.

2. **Mehar Banu Begum Vs. State of Assam and Another, 2022 SCC Online SC 1894**, In the said case the Petitioner/actual owner are directed to execute the bond of sufficient amount to cover of the cost of shelter, fodder, treatment etc., of the seized cattle during its stay at the pound as per the provisions of the Section 5 (Sic. Rule 5) of the Prevention of Cruelty to animals (Care and maintenance of case property animal) Rule, 2017 within 3 days from today failing which the cattle shall be forfeited as per the provisions of the Section 5 (Sic. Rule 5) of the Prevention of Cruelty to Animals (Care and Maintenance of case property animal) Rule, 2017. Considering circumstance Hon'ble Apex Court expedited the trial and directed trial should be concluded as soon as possible.

3. **Tirth Kumar Shahu & Anr. VS. Sayed Shamim Quadari & Anr. Special Leave Petition(Criminal) Diary No(s)21489/2019.** decided on 05.07.2019. Wherein Hon'ble Apex Court observed that, The

High Court remitted the matter to the Court below to consider application under Section 457 of the Cr.P.C filed by the petitioner for release of truck considering provision of Prevention of Cruelty to Animal Act. Order confirmed with direction that the magistrate shall take into consideration provision of Prevention of Cruelty to Animal Act while deciding application on merits.

4. **Raguramsharma and another Vs. C. Thulsi and another, 2020 SCC Online SC 1325,** Wherein Hon'ble Apex Court Considering Subject to being satisfied about the profile of the present appellants as well as after ensuring about the identity of the cattle, the custody of the concerned cattle be allowed to be retained by the appellants.

5. **Animal Welfare Board of India Vs A Nagaraja and Ors, (2014) 7 SCC 547,** Wherein Hon'ble Apex Court observed that, We are therefore of the view that section 21, 22 of the PCA Act and the relevant provisions have to be understood in the light of the right conferred on animals under Section 3 R/w Section 11(1)(a) and (0) and Article 51A(g) and (h) of the Constitution and if so read, in our view, Bulls cannot be used as a performing animals for Jallikattu and Bullock cart race, since they are basically draught and pack animals, not anatomically designed for such performance.

6. **Krushni Goseva Sangh and another Vs State of Maharashtra and Others, 1988 Mh.L.J,** Wherein Hon'ble High Court observed that, Illegal slaughter of cow and scheduled animals. Police have power to seize cattle which are object of crime. Direction under Section 451 Cr.P.C. should be taken from competent Court of law for custody and disposal of property pending trial. Order should be for protection and

not for slaughter. Direction to State Government to take step for proper implementation of Act by making necessary amendment.

8. This court most humbly submit that, after considering above cited case laws it is clear that, in the above cited case laws considering the nature of matter, situation of animals, extent of cruelty caused to the animals, behavior of the owner of the animals and his involvement in the similar crimes, related provisions of State Laws, in some cases Hon'ble Apex Court and Hon'ble High courts gave interim custody of the animals to the Goshala, in some cases it was given to the rightful owner on direction to deposit maintenance charges. In the above cited case laws most important guidelines have been given to the Magistrate, and directions are given to apply these guidelines in cases regarding interim custody of the seized animals. I most humbly submit that, this court has gone through the above cited case laws. Considering guidelines mentioned in the above cited case laws and facts of the present case this court proceed to discuss claim of both the parties on basis of their contention.

9. Heard argument of respective learned Advocates. Learned Advocate Mr. S. A. Shaikh for applicant argued that, the applicant is the owner of said vehicle. Most of the Investigation is completed, there is no need to keep said vehicle in the custody of non-applicant. Said vehicle is seized by Police Station Phulambri, in Crime No.71/2026, for the above mentioned offence. Therefore, applicant had filed application for releasing said vehicle on Supurtnama.

10. He further argued that, applicant being registered owner of the seized vehicle, is entitled for supurtnama of the same. Also argued that, applicant is ready to execute necessary bonds. So far as the amount of transport, treatment and care of animals is concerned, the liability in respect of the same, can be decided on merit and on conclusion of trial. But for that, vehicle cannot be detained.

11. He further argued that, the say filed by the Gaushala is totally false. As the trial is not likely to be completed in near future, therefore, no purpose will be served by detaining the said vehicle. Therefore, it is necessary to release the same, on Suprutnama of Applicant.

12. ***He also placed his reliance, on the following authorities :***

i) Navkar Goshala Panjrapole, Dhule ..vs.. The State of Maharashtra dated 09 September 2025.

ii) Sundarbhai Desai ..vs.. State of Gujrat, 2003 ALL MR (Cril.) 363 (SC). And on the basis of said authorities, he submitted that, supurtnama application filed by the applicant is liable to be allowed. Further, submitted that, the livelihood of applicant is depended upon the income of said vehicle, therefore, said Truck is required by him. Considering the charge leveled against him, also, there is no necessity of further detention of said vehicle, at Police Station. Therefore, supratnama application may kindly be allowed and truck be released on supurtnama of applicant by imposing conditions, if any.

13. Admittedly, the present vehicle came to be seized by police station Phulambri in crim no.71/2026. Since, then same is lying at police station. It is clear that, the trial is not likely to be completed in near future. Moreover, in view of the authorities cited supra, by learned advocate for applicant, no purpose will be served, by detaining the vehicle at police station. That this court also observed that, applicant is registered owner of the said vehicle. Therefore, considering these facts, applicant is certainly entitled for interim custody of the vehicle.

14. Moreover, after going through the Rules of 2017, it is crystal clear that, there is no bar to release the seized vehicle on Supurtnama. The condition is that, the vehicle is required to be held as security, as per Rule 4, and the owner of the vehicle are liable to execute the bond, of the determined value with surety, for all reasonable costs incurred and anticipated to be incurred for transport, maintenance and treatment of the animals, and the applicant is liable for the costs of transport, treatment and care of the animals, as per Rule-5.

15. It is clear from record that, in all 4 Animals were found to be transported in the vehicle in question illegally. Therefore, certainly prima-facie case of cruelty to animals is made out and the culprits are liable to be prosecuted for the same.

16. Though such is the position, still in view of authorities cited supra, and the vehicle is lying at police station, and as most of the investigation is completed, no purpose will be served by detaining the

same in police station. It will be proper to release the vehicle by imposing stringent conditions, and also by directing applicant, to execute bond and to furnish surety, and the vehicle was also required to be held as security, for the costs of transport, treatment and care of the animals, as per rules of 2017.

17. Therefore, considering said fact, the say at **Exh.6** deserves no consideration. Moreover, there is nothing on record to show that, all the facilities for care and maintenance of the animals, as mandated by the Act of 1960 and the Rules of 2017 framed thereunder are available at the intervenor Gaushala. Therefore, considering all these facts, the say of Goshala, for grant of maintenance to animal cannot be considered at this stage. Therefore, in view of discussions made above, I pass the following order :

ORDER

1.The application of applicant is hereby allowed.

2.The Investigating Officer, Phulambri, is hereby directed to release the vehicle MAHINDRA & MAHINDRA LIMITED- BOLERO PICK UP CMP SC XL BS3-MH-20-DE-1843, Chasis No. MA1ZN2GHKE1K74506 & Engine No. GHEIK57068 of the applicant seized in crime No. 71/2026 for the offence punishable under Section 11(1) (d) , Prevention of cruelty to Animal Act 1960 R/w 5 A (1), 9 A of Maharashtra Animal Preservation Act, 1976 on executing the supurtnama bond/indemnity bond of Rs.5,00,000/- (Rs. Five lakhs only) by applicant and also furnishing solvent

surety or bank guarantee of Rs.5,00,000/- (Rs. Five lakhs only), till decision of the case, on following conditions:-

a) The applicant shall not dispose of the said vehicle or change its identity, in any manner till conclusion of the trial and shall produce the same as and when directed by this court.

b) The applicant is directed to submit the documents of ownership and insurance of the said vehicle to the Investigating Officer before taking the custody of it from the Police Station.

3. The P.S.O., P.S. Phulambri is directed to verify the documents in respect of ownership and insurance of the vehicle and shall prepare panchanama while giving the vehicle in custody of applicant and shall also take photographs of the same and shall submit the same in Court along with charge-sheet.

4. The vehicle bearing registration no. MH-20-DE-1843. is hereby held as security, as per provisions of Rule 5(4) off the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rule-2017, till conclusion of trial.

5. The copy of this order be sent to the Investigation Officer along with hamdast.

6. The Investigation Officer is directed to comply the order, as above before granting custody of vehicle to the applicant.

Phulambri.

Date. 12.03.2026

(Dr. R. S. Kulkarni)
Judicial Magistrate First Class,
Phulambri