

MHAU110017022025



Order below Exh.No.1 in
Cri.M.A. No. 169/2025.
Shivaji Baburao Ingle
Vs.
State of Maharashtra

This is an application filed by the applicant under section 503 the B.N.S.S. of 2023 for the custody of seized ASHOK LEYLAND Companys DOST RLS Bearing registration No. MH-20 EG 0861 Chasis No.MB1AA22E7HRG50226, Engine No.HGH039774P. This application filed by the applicant Shivaji Baburao Ingle as registered owner of seized vehicle. It is the contention of the applicant that said vehicle seized by Police Station Phulambri in crime No. 581/2025 for the offence punishable under Section 11(1)(d), of the Prevention of Cruelty to Animal Act. And section 5 A (1), 9 A of Animal Protection Act 1976.

2. 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. 6,50,000/- The applicant is ready to execute the supurtnama 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 and strongly opposed the said application, on 08-12-2025, Phulambri P.S. in connection with crime No. 581/2025 seized a total of 03 bovine animals from a vehicle, these animals were being transported in an extremely overcrowded manner, without any provision for fodder or water and secured with short ropes. The applicant has seized 03 cattle from the vehicle demanded by the applicant. A total of 3 cattle from the said vehicle have been seized from the possession of the driver while being transported in the said vehicle without any documents, without a certificate from the veterinary officer, illegally packed more than the capacity and despite not having enough space in the said vehicle, they have been seized from the possession of the above mentioned vehicle while being transported in that vehicle with a rope. The said animals have been kept at Matoshri Gaushala, Pal for safety and proper care since 08-12-2025. The crime is very serious and the investigation into the crime is in its initial stages. There are still more details to be revealed in the crime, the identification of the accused is yet to be established. There is a strong possibility that the present applicant is also involved in the said offence. The accused in this case illegally transported seven cattle in the said

vehicle, binding them together with ropes in an extremely overcrowded manner. Consequently, these seven innocent animals were subjected to extreme cruelty, thereby constituting an offence under section 11 of the Prevention of Cruelty to Animals Act, 1960- Pursuant to section 38 of the Prevention of Cruelty to Animals Act, 1960, as well as relevant section of the wildlife Protection Act, 1976 the Government has enacted certain mandatory rules for the protection and conservation of animals. The vehicle in question – which constitutes seized case property is subject to the rules stipulated in the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 enacted on May 23,2017. It is explicitly stipulated that the vehicle involved in the incident shall be retained as security to cover expenses related to the transportation of the animals as well as the costs incurred for their fodder, water and medical treatment. It is further clearly stated that for the entire duration that the cattle remain housed at the designated Gaushala, all expenses pertaining to their sustenance, health and transportation must be borne by the owner, driver or vehicle owner implicated in the offence. The application cannot evade the statutory obligations legally imposed upon him. As of 08.12.2025, the 3 seized cattle have been placed at the Matoshri Gaushala, Pal for their care and maintenance. In accordance with the applicable laws and rules, the applicant is liable for the costs associated with the animals fodder, water, medical care, treatment and transportation and such expenses seized vehicle cannot be released into the custody

of the applicant until the expenses incurred are fully recovered. There is a clear legal provision stipulating that the said vehicle must be retained as security until the applicant defrays the costs related to the fodder, water and veterinary care of the animals. Moreover, if custody of the said vehicle is granted to the applicant, he would no longer feel any deterrence from the law; consequently, he could potentially commit similar offences again and utilize the vehicle for the transportation of cattle intended for slaughter. Additionally, there is no guarantee that he would produce it before the Hon'ble Court when the need arise and therefore, prayed for rejection of said application.

5. I.O. filed say and submitted that, accused was transporting 2 bulls and 1 Cow illegally in the said vehicle. The said bulls were transporting for slaughtering purpose. If the vehicle handed over the the accused he will again transport the bullock with illegal manner. Hence, I.O. prayed for appropriate order on instant application.

6. Concern Gaushala Namely Matoshri Gaushala, Pal Notice were issued and Gaushala filed their say that as per the Rule (5) of the Prevention to cruelty to Animal Act (Care and Maintenance) Rules 2017, vehicle owner is liable to pay care and maintenance charges to Goshala.

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

on :-

(i) **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.

(ii) **Mehtar 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.

(iii) **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.

(iv) **Raguram sharma 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.

(v) **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 Bullockcart race, since

they are basically drought and pack animals, not anatomically designed for such performance.

(vi) **Krushji 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

(vii) **Jagatguru Sant Tukaram Gaushala Vs State of Maharashtra and other. Hon'ble Supreme Court order dated 25.01.2022 .** It is held by the Hon'ble Supreme court that with no commercial utility, we see no purpose in handing over the cattle back to respondent no 2, at this stage of time .

(viii) **State of U.P Vs Mustakeem and others.** In this case Hon'ble Supreme Court has held that when there is allegation that provisions of Prevention of Cruelty to Animals Act has been contravened that it would be proper to keep custody of animals with Goshala.

(ix) **Goushala Pashupalan Bahu-uddeshiya Sanstha Vs State Of Maharashtra, Hon'ble Bombay High Court order dtd.17.07.2018 in CWP 338/2018.** When there is

a contravention of Rule 56 © of the Prevention of Cruelty to animals (Care and Maintenance of case Property Animals)Rule 2017,then in view of section 35(2) of Prevention of Cruelty to Animals Act,1960 the court while deciding custody of cattle should take into consideration provision of Rule 3 of Rules 2017.

(x) Shaikh Saddam Shaikh Samad Vs.State of Maharashtra and others .Honble Bombay High Court (Aurangabad Bench) order dated 10.05.2024 passed in Cri. Writ Petition no 1775 of 2023. Even the agriculturist is required to follow transportation rules to transport the cattle in vehicle.

(xi) Jayvant Vrundavan Gopalan Gosanvardhan Sanstha Vs. State of Maharashtra and others Honble Bombay High Court by order dated 15.09.2023 in Cr W.P. No. 3037/2023. Wherein the Gaushala in whose custody the animal were kept was not made a party .Therefore , the Criminal Revision Application was remanded back for fresh consideration after hearing the petitioner Gaushala.

(xii) Altaf Babru Shaikh Vs. State Of Maharashtra and others. Hon'ble Bombay High Court by order dated.15.09.2023 in Cr. W.P. No. 2466/2022. It is held by Hon'ble Bombay high court that petitioner being the owner of truck is jointly and severally liable for the cost of transport treatment and care of animal.

(xiii) Tahir Matin Shaikh Vs. State Of Maharashtra and other Hon'ble High Court of Bombay by order dated 3.01.2023 in criminal W.P. No 685/2022. It is held by Hon'ble Bombay High Court that handing over temporary custody of the vehicle must be subject to appropriate conditions consistent with rules and law.

(xiv) Sardar Khan and other Vs. State Of Bihar Hon'ble Patna High Court order date4d 24.12.2013 in criminal Misc.No 47517/2013. When there is case related to the provision falling under Prevention of Cruelty to Animal Act and when the state failed to protect the animals, then stranger to the proceeding being Indian citizen has every right to take help of legal recourse to prevent cruelty to animals.

(xv) Anis Ahmed Bashir Qureshi Vs. State of Maharashtra and other Hon'ble High Court of Bombay (Nagpur Bench)order dated 23.02.2023. Provision of sec. 8(3) and particularly the proviso that sub section are mandatory provisions. As per this mandatory provision, pending trial, seized cow, bull or bullock shall be handed over to the neared Gosadan, Goshala ,Panjrapol, Hinsa Nivaran Sangh or such animal welfare organization willing to accept such custody and the accused shall be liable to pay for their maintenance for the period they remain in custody with any of such institution or organization asper the order of the court.

(xvi) *Yas Mohammad Vs. State of U.P. and other Hon'ble High Court of Allahabad dated 02.9.2021.* In this case that the provisions under section 451 to 457 of the code are general in nature , whereas the provisions relating to seizure, confiscation and release as contained under section 5 –A of the Cruelty act deal with these matters would be in the nature of special provisions contained under a special Act and therefore must prevail over the general law and in that view decided the matter. There can not be dispute about this well settled principle.

(xvii) *Roshan Omkar Tarare Vs. State Of Maharashtra and other . Bombay High Court Bench, Nag-pur order dated 10.02.2023.* In this case Hon'ble Court held that directing more reasonable calculation of the maintenance costs for the animals, upholding the principle that vehicle owners are liable for costs, but they must be justifiable.

(xviii) *Gorakshnath Adiwasi Sevabhavi Sanstha Vs. State Of Maharashtra and other. Hon'ble Bombay High Court, Aurangabad Bench order dated 02.12.2020 passed in Cr.W.P. 1026/2020.* In this case Court held that Magistrate in present case, ought to have called upon custodian of cattle to put forth its say – opportunity needs to be given.

(xix) *Abdul Majeed Abdul Nabi Vs. State of Maharashtra. Hon'ble High Court of Bombay*

(Aurangabad Bench) by order dated 06.02.2025 in criminal W.P. No. 1145/2024. Whereas, in this case petitioners are entitled for interim custody of vehicles on execution of bond with surety.

(xx) Mohammad s/o. Iqbal Md. Sarwar Vs. State Of Maharashtra. Honble Bombay High Court (Nagpur Bench) by order dated 16.2.2024.in Cr.W.P No 203/2023.

That as per rule 5 of the Prevention Of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017 (Rules of 2017) it is the duty of the learned Magistrate, while handing over the custody of animal to an infirmary, pinjrapole, SPCA, Animal Welfare Organization or Gaushala, the court shall determine an amount which is sufficient to cover all reasonable costs incurred and anticipated to be incurred for transport, Maintenance and treatment of the animal based on input provided by the jurisdictional veterinary officer and direct the accused and owner to execute bond of determine value. Rule 5 (4) of Rules of 2017, provides that the vehicle involved in an offence shall be kept as security.

(xxi) Ansar Ahmad and other Vs. State Of Maharashtra and other. Hon'ble Bombay High Court (Nagpur Bench)by order dated 6.6.2023 in Cr. W.P. NO 708/2022. In this case Investigation officer insure compliance of Rule 3(a) of the Rules of 2017. The investigating officer to shall report the compliance of the order passed by the Magistrate, and give directing

veterinary doctor for compliance of Mandatory Compliance.

(xxii) Akbar Bhura Bhai Sindhi Vs. State of Maharashtra and other. Hon'ble High Court of Bombay (Nagpur bench) order dated.24.09.2024 in Cr.W.P.No. 589/2024. In this case the investigating officer, at the initial stage of the investigation, is bound to record the statement of person whose names are mention in the receipts as sellers of the animals. It is expected of the investigating officer to record the statement of those persons to verify the correct factual position. It is pertinent to mention that, as and when a reply is filed to any application for release of the vehicle or release of the animal, the Police Officer is expected to make a candid statement with regard to the collection of the receipts and the validity or otherwise of the receipts. The learned Magistrate shall also see that, before deciding the matter, the police is questioned about the verification of the ownership of the cattle involved in the crime.

(xxiii) Abdul Samad Abdul Karim Vs. State Of Maharashtra. Hon'ble High Court (Nagpur Bench) CR. W.P. 400/2024. In this case court given guidelines to investigating officer .

8. 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. 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 Kailas Ingle 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. Therefore, prayed to reject the intervention application and handover the custody of said seized vehicle to the applicant on supurtnama. Said vehicle is seized by Police Station Phulambri, in Crime No.581/2025, 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 intervention application filed by the Gaushala, is liable to be rejected. Said application 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 vehicle 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, supurtnama application may kindly be allowed and vehicle 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 crime no.581/2025. 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 2 bulls and 1 Cow 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 of I. O and APP 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 prayer made in intervention application, 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 is allowed.
2. The Investigating Officer, ASHOK LEYLAND Company's DOST RLS Bearing registration No. MH-20 EG 0861 Chassis No. MB1AA22E7HRG50226, Engine No.HGH039774P in crime No. 581/2025 for the offence punishable under Section 11(1)(d), of the Prevention of Cruelty to Animal Act and section 5 A (1), 9 A of Animal Protection Act 1976. on executing the supurnama bond/indemnity bond of Rs. 7,00,000/- (Seven lakhs Rupees Only.) by applicant and also furnishing solvent surety or bank guarantee of Rs. 7,00,000/- (Seven lakhs

Rupees Only.) till decision of the case, on following condition:-

- 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 panchnama 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. MH20 EG 0861 is hereby held as security, as per provisions of Rule 5(4) of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rule-17, 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 : 28.03.2026

(Dr. R. S. Kulkarni)
J.M.F.C., Phulambri