

MHBH090012912026

**Cri. Misc. A. No.159/2026**
Subhash Vs. State**ORDER BELOW EXH. 1**

This is an application moved by the applicant namely Subhash Gajanan Narkhande to handover the custody of seized tractor bearing registration No. MH-36-AG-9853 and trailer bearing registration No.MH-36-AL-3457 by taking recourse of Section 503 of the Bhartiya Nagarik Suraksha Sanhita, 2023.

2. The present application has been strongly opposed by the I.O. and Ld. APP for the State.

3. Read application. I have gone through the say of the I.O. and Ld. APP. I have also gone through the documents filed by the applicant along with this application.

4. It is contended that the above vehicle and trailer are seized by P.S. Tumsar in Cr. No.679/2026. The applicant is the registered owner of the seized tractor and trailer. It is of his daily use. If it kept in idle at police station its valuable part will be damaged and rusted.

5. The I.O. & learned APP in their say strongly opposed the present application on the ground that the applicant will sell the tractor and trailer and also use it in the alike crime. The proceeding of revenue authority under the MLR Code is pending.

6. In the recent case of **Prabhudas alias Prabhakar S/o.**

Keshav Mahsaye Vs. State of Maharashtra the hon'ble Bombay High Court Bench At Nagpur has held that -

8. In my view, as of today, there are allegations of commission of crime with the help of said vehicle, which was allegedly involved in earlier crime, only on the basis of first information report. These are simply allegations which are required to be proved by the prosecution. The trial will take considerable time, till then, it is not desirable to keep the said vehicles in idle condition for indefinite period as held in Sunderbhai Ambalal Desai Vs. State of Gujarat.

7. In this case also there are allegations of theft of sand. As per the above judgment of Hon'ble High Court these are simply allegations which are required to be proved by the prosecution. The trial will take its considerable time, till then, it is not desirable to keep the said tractor and trailer in idle condition for indefinite period.

8. The applicant has filed the verified copy of R.C. book of seized tractor and seized trailer. It prima-facie appears that the applicant is the registered owner of the seized tractor and trailer.

9. It is worth to note here that the seized tractor and trailer having Electronic / mechanical parts. There are chances of its parts being destroyed / damaged if they kept idle at police station. The applicant is ready to obey each and every condition imposed by this Court. Thus, by imposing necessary conditions the care can be taken of the apprehension expressed by the I.O. and the Ld. APP in their respective say. Thus, considering the overall discussion, it would be

proper to grant interim custody of the seized tractor and trailer to the applicant on certain conditions. Hence order :-

ORDER

- 1) The Application is allowed.
- 2) The seized tractor and trailer be returned to the applicant on his executing Supratnama of Rs. 7,00,000/- (In Words Rs. Seven Lakh only) on following Conditions:-
 - a) Applicant shall produce the said tractor and trailer before court as and when required during course of Trial.
 - b) He shall not sell or transfer the tractor and trailer in any manner without prior permission of court till decision of case.
 - c) He shall not alter or change the said tractor and trailer till the final decision of the case and shall not use the said in the alike crime.
- 3) The I.O. is directed that before its release to take photographs of the seized tractor and trailer from all angles at the costs of the applicant. He is also directed to prepare detailed panchnama of the seized tractor and trailer before its release.
- 4) The Assistant Superintendent of this Court is directed that after the filing of the chare-sheet in the aforesaid crime, the record of this case be attached to that charge-sheet.
- 5) Inform the concern police station accordingly.
- 6) Bond before concerned I.O.
- 7) Humdast if any allowed.

[R. P. Bathe]

Date : 02-06-2026.

Judicial Magistrate, F. C., Tumsar.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of Stenographer: P. M. Welekar

Name of the Court: C.J.J.D. & J.M.F.C., Tumsar.