

MHAM060024992022



ORDER BELOW EXH.01
(Passed on 22/11/2022)

This application is filed under section 457 of Criminal Procedure Code, 1973 to release the interim custody of vehicle of Tractor of Swaraj company, bearing registration No. **MH-27-L-4815**, Chassis No. WQT376619100546, Engine No. 3RS10469, seized in Crime No.237/2022 under Section 389 r/w 34 of I.P.C. by Police Station, Sarmaspura, Dist. Amravati.

2. According to applicant, he is the permanent resident of Shindi, Tq. Achalpur. Applicant is the owner of the said vehicle. The Sarmaspura Police Station has seized the said vehicle which is lying with them having no facility to keep it in good condition. He therefore, prays for releasing it on supurtnama.

3. Say of Learned A.P.P., Investigating Officer was called. The Learned A.P.P. has filed his say on the application itself and opposed the application. Further, he has prayed for rejection of application.

4. The Investigating Officer has filed his say, which is at Exh.05 and 08 respectively, whereby it is contended that the offence punishable under Section 379 r/w.34 of I.P.C. has been

registered against accused namely Swapnil Ravindra Chhapane and Ankush Thakre. The vehicle was used in said crime. He prayed to pass suitable order.

5. Perused the case record. Heard Learned Advocate appearing on behalf of applicant and also heard the Ld. A.P.P. Applicant has relied on documents filed along with list Exh.03 & 7 i.e. copies of registration particulars of vehicle and photo copy of F.I.R. On perusal of verified copies filed on record, prima facie it reveals that applicant namely Panjabrao Jayram Shrinath is the registered owner of said vehicle. Therefore, prima facie the applicant is entitled for interim custody of said vehicle.

6. In view of aforesaid discussion, there is no bar in releasing the said vehicle after imposing necessary conditions. No purpose would be served by keeping the seized vehicle in the custody of the police. No one has appeared and asked the custody of the said vehicle except present applicant. Registered owner gave no objection. Also, this custody is an interim and not a permanent. So also, as per the observations of the Hon'ble Supreme Court in case of **Sunderbhai Desai Vs. State of Gujrat (AIR-2003 SC 638)**, The vehicles seized during investigation should not be allowed to deteriorate by being kept unused and unattended in the premises of the police station. Therefore, it would be just and proper to entrust the interim custody of the vehicle with the applicant on the following conditions. Hence, I pass the following order.

ORDER

1. Application is allowed
3. The vehicle Tractor of Swaraj company, bearing registration No. **MH-27-L-4815**, Chassis No. WQT376619100546, Engine No. 3RS10469, be released and handed over to the applicant on execution of indemnity bond of Rs.3,00,000/- (Rupees Three lac only).
- 3) The applicant shall furnish indemnity bond at Police Station, Sarmaspura.
- 4) The Investigating Officer is directed to prepare detailed panchanama, while handing over the interim custody of the seized muddemal and also to snap colour photographs of the same and submit the same as well as indemnity bond along with charge-sheet.
- 5) The applicant is directed not to sell, mortgage, dispose, alter or alienate the said vehicle in any manner, without permission of the Court.
- 6) The applicant is directed to produce the said vehicle as and when required by the Court, without fail.
- 7) Concerned Clerk to issue letter to the Police Station, Sarmaspura on execution of indemnity bond by the applicant.
- 8) Investigating Officer is at liberty to seize the said vehicle if applicant fails to comply the conditions if any.

Achalpur.

Date: 22/11/2022.

(Rajendra D. Chougale)
Judicial Magistrate First Class,
Court No.3, Achalpur.