

MHBU010004472023



IN THE COURT OF ADDITIONAL SESSIONS JUDGE, BULDANA

SPECIAL CASE NO. 20 OF 2023

Dhananjay Baban Parihar,
Age-25 years, Occ.Business,
R/o Aancharwai,Tq.Chikhli,Dist.Buldana ... Applicant

..Versus..

State of Maharashtra
Through D.G.P.Buldana,
Through PSO Andhera ... Non-applicant/State

ORDER BELOW EXH.16

(Passed on this 15th day of July 2023)

1] Instant application has been filed by applicant (who is not accused) for releasing seized Motorcycle bearing registration No. MH-28-BS-6624 (offending vehicle) on supratnama in his favour.

2] It is the case of applicant that he is owner of above stated offending vehicle. Andhera Police Station Officer has registered offence bearing Crime No.40/2023 relating to the offences punishable under Sections 363, 354A, 354D of the Indian Penal Code and under Sections 8,12 of the POCSO Act and seized the said offending vehicle in the said crime. He has not committed

any offence and he has no concern with such offence. Despite it, his vehicle was seized by investigating officer.

3] Applicant is in need of said vehicle for his routine domestic work. Said vehicle is in the custody of police since considerable time. According to him, he is registered owner of offending vehicle. In case, said vehicle is released on supratnama, he will not misuse the same and he will abide conditions which will be imposed by the Court. On the basis of mainly these grounds, lastly it is requested for releasing offending vehicle on supratnama.

4] After service of notice, learned APP Shri APP Smt.Saoji-Deshpande has appeared in the proceeding by filing say vide Exh.18 and opposed application for supratnama. According to her, applicant will change the nature of vehicle in dispute which is part of evidence of prosecution case. Lastly, it is requested to reject the supratnama application.

5] I have heard learned APP Smt.Saoji-Deshpande and learned Counsel of applicant Shri Sadik Sayyad and perused record.

6] Applicant is claiming that he is owner of offending vehicle. In support of his application, affidavit is filed on record. He has also filed the copy of certificate of registration relating to offending vehicle. Such document relating to offending vehicle reveals that applicant is the owner of offending vehicle. It appears that said vehicle was seized by concerned Police Officer of Andhera Police Station long back. Admittedly, charge-sheet has been filed in the Court. Since considerable period, offending vehicle appears to

be lying in the custody of investigating officer. In this situation, it is but natural that due to its non-use, there is every possibility that offending vehicle will be ruined. Under such circumstances, when applicant is found to be the owner of offending vehicle and investigating officer appears to have completed his investigation, then applicant has every legal right to receive its possession on supratnama.

7] At this juncture, it would be expedient to deliberate upon the judicial pronouncement of Hon'ble Apex Court which is very relevant to the case in hand. It is the judgment, reported in **Sundarbhai Ambalal Desai Vs. State of Gujarat, Spl. Leave Petition (Cri.) 2745/2002 decided by Hon'ble Apex Court on 01st October 2002.** Its relevant paragraph is reproduced as under, inasmuch as in the said judgment question about releasing the property on supratnama was the subject matter. Certain guidelines have been laid down by Hon'ble Apex Court in the said judgment and same is reproduced as under -

“...In our view, the powers under Section 451 Cr.P.C. should be exercised expeditiously and judiciously. It would serve various purposes, namely :-

- 1. Owner of article would not suffer because of its remaining unused or by its misappropriation.*
- 2. Court or the police would not be required to keep the article in safe custody ;*
- 3. If the proper panchanama before handing over possession of article is prepared, that can be used in*

evidence instead of its production before the Court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and

4. This jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles...”

In further paragraph, it is observed that

*“...In our opinion, **whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period.** It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles...”*

8] No doubt, aspect of proving the fact of seized offending vehicle during trial is material one. In this situation, if certain stringent conditions are imposed while passing the order of releasing offending vehicle on supratnama, then it would suffice the purpose of justice and it may not prejudice to the prosecution side. As such, I do not find any legal reason so as to reject the prayer of releasing the offending vehicle on supratnama in favour of applicant. In the result, following order is passed.

ORDER

- 1] Application (Exh.16) is allowed in following terms;
- 2] Seized vehicle Motorcycle bearing registration No. MH-28-BS-6624, Engine No.HA11EXM5H50912, Chasis No. MBLHAW 105M5H00898 seized in Crime No.40/2023 registered by non-

applicant, be released in favour of applicant Dhananjay Baban Parihar on execution of supratnama bond of Rs.80,000/- (Rupees Eighty Thousand Only) with one surety of Rs.15,000/- on following conditions;

- (a) Applicant shall not dispose off or transfer seized vehicle to anybody till the decision of main case.
 - (b) He shall not change the nature of seized vehicle in any manner till the decision of main case.
 - (c) Concerned Investigating Officer shall take the photograph of seized vehicle and prepare its detail panchanama of said vehicle in presence of panchas before releasing it on supratnama to the applicant and file them in main case so that said photograph and panchanama can be used as a evidence during trial.
 - (d) Applicant shall produce seized vehicle as and when required by court during trial if found necessary.
- 3] Applicant shall furnish true copy of his identity card, supratnama bond and surety bond before the Court. Then, letter to concerned Investigating Officer be issued for being complied the said order.

Buldana
Date: 15.7.2023

(R.N.Mehare)
Addl.Sessions Judge,
Buldana