

MHBU010013262023



IN THE COURT OF ADDITIONAL SESSIONS JUDGE, BULDANA

SPECIAL CASE NO.74 OF 2023

Kisan Ananda Mandalkar,
Age-50 years, Occ. Labour,
R/o Sanjay Nagar,W.No.09,
R/o Deulgaon Raja,
Tq.Deulgaon Raja,Dist.Buldana ... Applicant

..Versus..

State of Maharashtra
Through D.G.PBuldana,
Through PSO Deulgaon Raja ... Non-applicant/State

ORDER BELOW EXH.28

(Passed on this 3rd day of December 2025)

1] This is an application preferred by the applicant under Section 503 of the Bharatiya Nagarik Suraksha Sanhita for releasing the Motorcycle bearing Registration No.MH-28-AY-1102, Chassis No. MBLHAR058H9J43611, Engine No.HA11EPH9J19484 and Mobile of Vivo Y 20A [3/64] [IMEI No.862739051671030] company on supratnama.

2] Perused the application and say filed by the learned Public Prosecutor Shri Bhatkar.

3] Heard learned advocate for applicant as well as learned Public Prosecutor.

4] The applicant is praying for return of above said vehicle and mobile on supratnama. In view of case law **Denash Vs State of Tamilnadu, Criminal Appeal arising out of SLP (Criminal) Nos.8698/2025, SC 1258** relied by the prosecution, it is found that there are four scenarios concerning the seizure of contraband from a conveyance, which are to be examined for deciding return of vehicle. First where the vehicle is seized from owner wherein contraband substance is recovered, second where contraband is recovered from possession of agent of owner, third where contraband is recovered from stolen vehicle, fourth where contraband is recovered from third party occupant. It is observed that in first and second scenarios, the vehicle may not be released on supardari till reverse burden of proof is discharged by accused owner and in third and fourth scenarios, where there is no allegation against the owner, vehicle should normally be released.

5] In view of above observations, if the present case is examined, it is found that there are allegations against the accused that he was found in possession of Ganja of 24.300 grams worth Rs.2,91,600/-, in his house and he was found carrying four packets of Ganja weighing 400 grams on his motorcycle bearing No. MH-28-AY-1102 in front of his house. After going through the material on

record, it is found that the applicant is the owner of motorcycle bearing No. MH-28-AY-1102. Thus, it is found that present case is covered under first scenario where the allegations are against the owner of vehicle as he was carrying 40 grams Ganja with him. In such circumstances, in view of observations in the above case law, the vehicle cannot be returned to the owner.

6] As far as the mobile is concerned, it is found that the applicant has not produced the purchase receipt of mobile showing that the applicant Kisan Ananda Mandalkar is owner of mobile. Moreover, he has filed copy of tax invoice of mobile of Vivo Company, which shows that tax receipt is in the name of Datta Mandalkar. Thus, in such circumstance, the mobile cannot be returned to the applicant. In view of above discussion, Hence, I pass the following order;

ORDER

The application [Exh.28] is rejected.

Buldana
Date:3.12.2025

(Manjusha V. Deshpande)
Additional Sessions Judge,
Buldana