

MHBU040004722021



ORDER BELOW EXH.
(Passed on 08/09/2021)

This is an application filed by the applicant Sardarsing Sabale, who is submitting that he is registered owner of his four wheeler i.e. Mahindra Max having registration No. AP-27-Q-6133 Engine number GF84E68037 and Chasis number MA1VP2GEK83E41976 is involved in the Crime No.49/2021 registered under Section 20-B of NDPS Act with Shivaji Nagar Police Station.

2. It is stated that, the said vehicle is seized by police from the driver of his vehicle. This applicant is not involved in any illegal act. Applicant is not at all concerned with this crime. As per the charge-sheet, it is seen that the vehicle is seized as per spot-cum-seizure panchanama dated 04/9/2021. The accused are in jail. Since the seizure of vehicle, it is lying unattended condition. He is the agriculturist and used the vehicle to carry the vegetables in the market. Therefore, claims for its released on Suprutnama.

3. The applicant is ready to abide the terms and conditions that may be imposed by the Court while releasing the said vehicle into his custody. The applicant being the registered owner of the said vehicle is entitled for obtaining its release from

the Police Station. The application along with the application below list Exh.11, the document of certificate of registration, insurance details and his Aadhar card is filed on record. Perused the same. Heard arguments.

4. The State filed its say at Exh.08 thereby submitted that this vehicle was used to carry the contra-banned articles. Huge quantity of Ganja was seized from the possession of accused out of them one is the driver of said vehicle. The investigation is completed, charge-sheet is filed. If the vehicle is released, again alike offences can be committed by them. Hence, strongly objected for release of said vehicle.

5. During argument the citation reported in **Criminal Misc. Petition No.1374/2020 Tikeshwar Singh, Vrs. State of Chhattisgarh** is also relied, which is the same regarding seizure of vehicle in NDPS case. It is observed that as per provision of section 60 of NDPS Act, the provision regarding confiscation of vehicle seized in commission of offence are provided. It is observed that as per the said provision there is no confiscation of any vehicle immediately after its seizure. It is for the Court to decide as to whether the vehicle is liable to be confiscated or not. Section 63 of the said Act, provides the procedure for the same. As per section 51 it is clear that, the provision of warrants, arrest, search and seizure as mentioned in Cr.P.C. are equally

applicable. It is further observed that since the provision of section 451 of Cr.P.C. about interim custody of property is relating with the said fact and not inconsistent with the provision of section 60 and 63 of NDPS Act. It is further observed that as per provision of section 36-C of NDPS Act, the provision of Cr.P.C. is applicable for the proceeding of NDPS Act. Therefore, by applying the principle of statutory interpretation, the bar of jurisdiction is not expressly barred, therefore, the principle is applicable to the Criminal Court. As per the parameter observed in the said citation, the petitioner is entitled for seeking the interim custody of the vehicle as per section 451 of Cr.P.C. It is further clear that this applicant is the registered owner of said vehicle and is not accused in the said proceeding therefore, by inserting certain terms and condition the vehicle can be released by way of interim custody to the present applicant. Accordingly, following order is passed.

ORDER

[1] The Application is allowed.

[2] The Officer-in-Charge of Shivaji Nagar Police Station, Dist. Buldana, or the Investigating Officer in Crime No. 49/2021, is hereby directed to release the vehicle i.e. Mahindra Max bearing registration No. AP-27-Q-6133 Engine No.GF84E68037 and Chasis MA1VP2GEK83E41976 in the custody of the applicant namely Sardarsing Govindrao Sabale, subject to

following conditions-

(i) He shall execute a Supratnama Bond for the sum of Rs.1,00,000/- (in words rupees one lac only) under-taking to produce the said vehicle before this Court, if required during trial, in connection with the afore-said Crime.

(ii) The applicant Sardarsing Govindrao Sabale, shall bear the expenses of taking the necessary photographs of the said vehicle and the same shall form a part of Charge-sheet in connection with said Crime No. 49/2021.

Date : 08/09/2021.

Sd/-
(Smt. P. S. Kale)
Additional Sessions Judge,
Khamgaon, Dist. Buldana.

Certificate :

I affirm that the contents of this P.D.F. file judgment are same word for word as per original judgment.

Name of Steno : C. N. Mahale

Name of Court : Ad hoc Assistant Sessions Judge, Khamgaon,

Upload date : 08-09-2021.