

MHGA070007112020



**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, AHERI,
DISTRICT-GADCHIROLI**

(Presided over by S. S. Mahale)

S.C.C. No.316/2020

THE PROSECUTION:-

State of Maharashtra
through Police Station Officer,
Police Station, Etapalli,
Taluka – Etapalli, District -Gadchiroli.

- V E R S E S -

THE applicant:-

Shri. Vasant Vijay Pungati,
Age about 23 years, Occp.: Agriculture,
Resident of Recknar,
Taluka – Etapalli,
District – Gadchiroli.

Appearance :

Learned advocate Shri. K.P. Pungati for the applicant.
Learned A.P.P. Shri S.K. Paradhi for the non-applicant.

ORDER BELOW EXH.09

(Passed on 23rd March 2021)

The instant application is filed by the applicant for returning
of **Hero Honda Company Passion Plus Motorcycle bearing
registration No. MH-33/E-8743.**

02. The learned Assistant Public Prosecutor filed his say behind
the present application.

03. Heard the learned advocate for the applicant as well as the learned A.P.P. Perused the document filed along with list Exh.12. Also, gone through the pursis (Exh.13).

04. It has been submitted by the applicant that Police Station, Etapalli, Taluka-Etapalli, District-Gadchiroli seized supra mentioned motorcycle during the course of investigation in Crime No.01/2020 for the offence punishable under Sections 279, 304A of the Indian Penal Code, 1860. He is ready to abide all the conditions which will be put by this Court while allowing the present application. Further, he is the registered owner of the said motorcycle. In support of his contentions, he has filed on record verified copies of Certificate of Registration of said motorcycle and Aadhar card of himself.

05. Perusal of say given by the learned A.P.P. shows that in absence of insurance, the applicant drove claimed motorcycle in a rash and negligent manner. Resultantly, the deceased namely Rama Lula Pungati lost his life. In the above situation, claimed motorcycle be not handed over to the applicant.

06. Prima-facie perusal of record reveals that **Hero Honda Company Passion Plus Motorcycle bearing registration No. MH-33/E-8743** appears to be owned by the applicant. It is seen from the pursis (Exh.13) filed by the learned advocate of the applicant and the record that supra motorcycle in question was not insured on the date of alleged incident. Offences registered shows that, one person has lost his life in the said incident. At this juncture, I would like to quote observations of the Hon'ble Apex Court in the case of *Jayprakash Vs. National Insurance Company* [2010] 2 SCC 607. The Hon'ble Supreme

Court in the case of Jayprakash (Supra) observed as under :

“Where there is no insurance cover for a motorcycle, the owner should be directed to offer security or deposit an amount, adequate to satisfy the Award that may be ultimately passed, as a condition precedent for release of the seized motorcycle involved in the accident. If such security or cash deposit is not made, within a period of three months, appropriate steps may be taken for disposal of the motorcycle and hold the sale proceeds in deposit until the claim case is disposed of. The appropriate Governments may consider incorporation of a rule on the lines of Rule 6 of the Delhi Motor Accident Claims Tribunal Rules, 2008 in this behalf.”

7] In view of the directions given by the Hon'ble Supreme Court mentioned above, claimed motorcycle cannot be released unless the sufficient security is being obtained from the applicant. Taking into consideration, age of the deceased as 50 years and his occupation of agriculture, in my opinion a tentative amount of Rs.2,00,000/- from the applicant would be required to satisfy the Award that may be passed by the Hon'ble Motor Accident Claims Tribunal in the future. Further, as per the supra directions period of three months for depositing amount of Rs.2,00,000/- needs to be given to the applicant. In default of depositing said amount, claimed motorcycle had to be auctioned.

8] In the backdrop of above discussion, I pass the following order.

ORDER

The application (Exh.09) is allowed subject to the condition that the applicant shall deposit an amount of Rs.2,00,000/- in this Court within the period of three months from the

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date of this order. In default of making said payment the Investigating Officer or in his absence due to his transfer or like reasons the Police Inspector, Aheri is directed to auction **Hero Honda Company Motorcycle Passion Plus bearing registration No. MH-33/E-8743** as per the rules.

Dated : 23/03/2021.
Place : Aheri.

(**S. S. Mahale**)
Judicial Magistrate First Class,
Aheri, Distt. Gadchiroli.

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CERTIFICATE

I affirm that the contents of this PDF file order are same word to word as per the original order.

Name of stenographer	:- J.A. Gadekar, Grade -III.
Court Name	:- C.J.J.D. & J.M.F.C. Aheri, Tq.- Aheri, Distt - Gadchiroli.
Date of order	:- 23/03/2021.
Order dictated on	:- 23/03/2021.
Order signed on	:- 23/03/2021.