

his power of attorney under S.497 of Bhartiya Nagrik Suraksha Sanhita thereby soliciting to release the seized vehicle property namely Mahindra and Mahindra Bol Maxx Pup HD 1.7L LX bearing no. MH 34 BZ 5654 and chassis no. MA1RE2TTKP6K48190 on supratnama.

2] Perused the application and reply thereon. Heard.

3] Learned Adv. for the applicant submitted that the applicant is falsely implicated in the present offence. The vehicle is seized by the police in crime no. 138/2024 for the alleged commission of offences. He is ready to abide by the terms and conditions as imposed by the Court. Hence, the application may kindly be allowed.

4] Learned APP for the State submitted that the applicant is involved in a serious offence. The said vehicle was used for carrying 57 animals out of which 11 animals are dead for the purpose of slaughter purpose. The applicant did not provide for the maintenance of said animals as per Rule 5 of the Prevention of Cruelty to Animals Rules, 2017. He may commit similar offence. Hence, the application is liable to be rejected.

5] Perused FIR, particulars of vehicle bearing no. MH 34 BZ 5654, Insurance Policy and Aadhar Card. The accused is charged with the offence punishable under S.11(1)(d)(e) of The Prevention of Cruelty to Animals Act, 1960, S.5A of the Maharashtra Animal Preservation Act, 1976, S.119 of the Maharashtra Police Act and S.325 r/w S.3(5) of the Bhartiya Nyaya Sanhita, 2023. It appears that the particulars of vehicle is in the name of applicant. The accused no.1 to 3 filed their say at Exh.32 stating that they have no objection in releasing

the said vehicle in favour of the applicant.

6] I have taken into consideration the provisions enshrined in the Act of 1960 and the Rules of 2017. It is not disputed that the applicant is the owner of the seized vehicle. Both the learned APP and learned advocate for the accused has not drew the attention of the Court to any specific provision about confiscation of the vehicle. In absence of such provision under the Rules of 2017, the general provisions under the Bhartiya Nagrik Suraksha Sanhita would apply.

7] The Hon'ble Bombay High Court in the case of Vijaykumar Mukundilal -Vs.- State of Maharashtra quoted in para 9, 10 and 11 as under:

“9. Neither the learned Additional Public Prosecutor nor the intervener is able to point out any provision which could authorise confiscation of vehicle found transporting animals against the Rules and Regulations. The submission advanced by both sides are centering around Rule 5 of the Rules of 2017. The Rules are exhaustive to contend about the custody of animals pending litigation, cost of care and maintenance of animals pending litigation, execution of bond etc. Rule 5(1) of the Rules of 2017 mandates that, the Magistrate while handing over the custody of animals to the Gaushala, shall determine the reasonable amount and cost incurred and

anticipated to be incurred for transport, maintenance and treatment of the animals and shall direct the accused and the owner to execute a bond of determined value with surety within three days and on its failure, the animal shall stand forfeited to Gaushala. The said Rule never cast any obligation upon the vehicle owner, but it speaks about the obligation of the owner of animals. Much emphasis is laid on Sub-rules (4) and (5) of the Rules of 2017 which says that the vehicle involved in the offence shall direct to be held as a security and the vehicle owner shall be jointly and severally liable for cost of transport, treatment and care of animals. Since Sub-clause (5) of said Rules casts joint and several liability, the vehicle owner cannot shade his responsibility of paying cost as directed.

10. Though vehicle is to be held as a security the aspect is about handing over temporary custody of vehicle during the pendency of the Trial. Rule 5(1) of the Rules of 2017 is specific having consequence of default that, if within three days from the order of the Magistrate, the owner fails to execute a requisite bond, animal shall stand forfeited to the Gaushala. Thus, there would be automatic forfeiture of animal on failure of owner. It is not made clear that whether the Magistrate has made

any order under Rule 5(1) of the Rules of 2017 while handing over custody of animals to the Gaushala. It is informed that the owner has not approached to the Magistrate for release of cattle. The question is how far the vehicle owner shall be directed to pay cost of maintenance of animals, if there is no forfeiture. Certainly, his liability may not extend after forfeiture of animals to the Gaushala as contemplated under Rule 5(1) of the Rules of 2017. Therefore, till the mean period, the owner of the vehicle shall be held responsibility to pay the maintenance charges.

11. It is not disputed that the petitioners are owners of respective vehicles. Undisputedly, for considerable period, the vehicles are lying in the Police Station. In reported case of [Sunderbhai Ambalal Desai Vs. State of Gujarat \(2002\) 10 SCC 283](#), the Supreme Court held that:-

"In our view, 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."

Though the vehicle is seized for the offence under the special statute, no specific provision is brought to the notice about confiscation of vehicle. In absence of such provision under the Rules of 2017, the general provisions contained under Chapter XXXIV of the [Code of Criminal Procedure](#) would apply. The Trial Court will take considerable time for disposal of case. Certainly, if the vehicle is kept lying at the Police Station, during passage of time it would become worthless. Therefore, though the vehicle can be held as security, the interim custody can be given to the petitioners on certain terms and conditions.”

8] In light of the judgment, the owner of the vehicle cannot shade his responsibility of paying cost incurred for transport, maintenance and treatment of the animals. The seized vehicle needs to be held as a security and its interim custody can be granted in favour of the applicant. Hence, the following order is passed.

ORDER

1] The application is allowed subject to the vehicle being held as a security.

2] The vehicle namely **Mahindra and Mahindra Bol Maxx Pup HD 1.7L LX bearing no. MH 34 BZ 5654 and chassis no. MA1RE2TTKP6K48190** be handed over to the applicant on execution of indemnity bond of Rs. 7,00,000/- until the disposal of the case or further order of this Court incorporating the following conditions :

- a) He shall deposit the respective amount at the rate of Rs.200/- per cattle alive for the period of 10 days.
 - b) He will produce the vehicle as and when required before the Court.
 - c) He will not transfer or dispose it of in any manner whatsoever without prior permission of this Court.
 - d) He will not alter, tamper or change the nature of the vehicle in any manner whatsoever.
 - e) He will not use it to commit any offence.
- 3] If he fails to abide by any of the conditions, his bond would be forfeited.
 - 4] For fair trial, Investigation Officer in crime no. 138/2024 is directed to prepare proper and detailed panchanama describing the nature of the property in details after taking colour photographs of the vehicle and file the same with the charge-sheet.
 - 5] The *fore* said photographs shall be signed by the complainant, accused as well as the applicant.
 - 6] The copy of this order be sent to Police Station, Ashti to file it in crime no. 138/2024.
 - 7] The Investigating Officer shall return the vehicle to the applicant after verifying the ownership from the certificate of registration and on confirming that the vehicle is duly insured.
 - 8] Application is disposed of accordingly.

Date: 12.03.2026.

Sd/-
(S. A. Bhaisare)
Judicial Magistrate, First Class,
Chamorshi