

ORDER BELOW EXH. 17

(Passed On 13.10.2023)

This is an application filed by the applicant Sundarbhai Vasant Bhoi under section 451 of Cr.P.C. for interim custody of seized Vehicle PIAGGIO Pvt. Ltd., bearing registration number MH-19-BM-5212, Chesis No. MBX00002BBTA258261, Engine No. A6A0964872, on *supurtnama*, which is seized by Police Station Faizpur in C.R. 138/2023.

2. Learned A.P.P. filed their say below Exh.17 & I.O. filed his reply below Exh.21 & opposed to this application on the ground that, seized vehicle is necessary during the trial. Therefore, prayed for rejection of application.

3. Heard learned advocate, Shri. R. N. Patel for the applicant and learned A.P.P. Smt. B. A. Ahirrao for the State.

4. Perused application, applicant filed documents on record verified copy of registration certificate, verified copy of Insurance, verified copy of Adhar Card. Police have seized the above said vehicle in Crime No. 138/2023. On scrutiny of the document, it shows that, the vehicle is owned by the applicant's husband but now her husband is no more and expired on dated 29/07/2020. It means now the applicant is the costodian. There is no hesitation to hold that the applicant is entitled to get interim custody of the seized Vehicle. As per the rule laid down by *Hon'ble Supreme Court of India in Sundarbhai Ambalal Desai Vs. State of Gujarat (2002)10 SCC 290*. It is held that,

“....it is no use to keep seized property at the police station for long period. Magistrate has to pass appropriate order immediately by taking appropriate bond as a security for return of property, if required, at any point of time.”

Moreover, till today except applicant there is not filed any application for interim custody of said vehicle. The owner and seized vehicle is out of jurisdiction of this court. Therefore some terms and conditions should be

imposed while releasing the said vehicle otherwise bad message will be go in the society. Hence, considering say filed by prosecution, I.O, ruled laid down by Hon'ble Supreme Court of India and documents on record, I proceed to pass the following order :-

ORDER

- 1] The application is allowed.
- 2] Police Station, Faizpur is hereby directed to hand over seized Vehicle PIAGGIO Pvt. Ltd., bearing registration number MH-19-BM-5212, Chesis No. MBX00002BBTA258261, Engine No. A6A0964872, to the applicant Sundarbhai Vasant Bhoi resident of Shantinagar, Yawal Tq. Yawal, Dist. Jalgaon on his due identification.
- 3] The applicant is directed to furnish indemnity bond of Rs. 3,00,000/- (Three Lack Rupees only) before the Court and cash security of Rs. 10,000/- (Ten Thousand Rupees only).
- 4] The applicant is further directed not to change colour and nature of the vehicle or not to sell, alienate or dispose of the vehicle till final decision of the case.
- 5] The applicant is directed to produce the vehicle as and when ordered and required by the Court.
- 6] I.O. is directed to take appropriate photographs of the above said vehicle and also prepared detailed panchanama while handing over the vehicle to the applicant and submit it to this Court.

Dated: 13.10.2023.

(V. S. Damare)
Judicial Magistrate F.C., Yawal.

CERTIFICATE

I affirm that the contents of this P.D.F. File of judgment/order are word to word as per original judgment/order.

Name of Stenographer : R.S. Badgujar.

Name of Court: Jt.C.J.J.D. & J.M.F.C., Yawal.