

MHKO010047492023

Order passed below Exh. 28 in Sessions
Case No. 276/2023

This is an application filed applicant under section 497 of BNSS,2023 for getting custody of property i.e. Hyundai Verna motor car FL 1.6 VTVT S(O) BSIV four-wheeler bearing registration No. MH-09-CS-0255, seized in C.R. No. 406/2023, registered in Karveer Police Station, Kolhapur under Sec.395, 397, 120(B), 324, 323, 504 I.P.C r.w. section 3 and 25 of Arms Act.

2. According to applicant, he has no concerned with the alleged offence. The police have recovered and seized the vehicle from accused No.5 Ankit Sharma, who is relative of present applicant and who had taken the said vehicle from applicant for use for two days. The said vehicle was not used for committing offence. It is stated that R.C.Book was in the vehicle and it was not produced and therefore, earlier application at Exh.9 was rejected by the Court. Now, the applicant has filed R.C.Book, Insurance receipt and his Aadhar Card etc. It is contended that the applicant is the owner and if the vehicle remains idle in the police station, there will be damage to said vehicle. The applicant is ready to execute the requisite bond and will produce the vehicle as and when directed by this Court.

3. The investigating officer and Ld. APP have filed say at Exh. 32 and have admitted that the said vehicle had been seized in connection with this crime. Ld. APP has not disputed the fact that the present applicant is the registered owner of the said vehicle. As per

say of the investigating officer, muddemal was seized from the goods space of the car. It is contended that the applicant might commit serious offence using said car and as the owner is resident of Madhya Pradesh, he might not produce the car, if required during trial. The say of the investigating officer does not disclose as to why the car cannot be returned to original owner.

4. As per R.C.Book, the said car stands in the name of Man Sinh Tomar i.e. present applicant. He has also filed a insurance policy, which shows his name as owner. Even as per case of prosecution, said car was not used while committing the offence.

5. Hon'ble Supreme Court in *Sunderbhai Ambalala Desai Vs. State of Gujarat (2002 AIR SCW 5301)* has laid down certain guidelines for disposal of the property pending trial. It is observed that the power under Sec. 451 of Criminal Procedure Code should be exercised expeditiously and judiciously. The Court has to pass appropriate orders immediately and articles are not to be kept for long time in police station, in any case for not more than fifteen days to one month.

6. Having considered the rival submissions and the guidelines issued by the Hon'ble Supreme Court in the judgment cited *supra*, I deem it appropriate to allow this application and give custody of said vehicle to the application on bond (suprutnama). Hence, the order.

ORDER

- (1) The application is allowed.
- (2) The vehicle Hyundai Verna motor car FL 1.6 VTVT S(O) BSIV four-wheeler bearing registration No. MH-09-CS-0255, seized in C.R.

No. 406/2023, registered in Karveer Police Station, Kolhapur, be handed over to the applicant Man Sinh Tomar on following conditions:

- (a) That the applicant shall execute a bond (suprutnama) of Rs.6,00,000/- (Rs.Six Lacs only).
 - (b) The applicant shall not make any material change in the vehicle nor shall sell or dispose it off without permission of this court.
 - (c) The applicant shall produce the said vehicle as and when directed by this Court.
 - (d) The applicant shall produce photographs of the said vehicle on record.
- (3) Issue letter to the concerned Police Station on compliance by the applicant.

Date: 12-12-2024

(Mrs. A. S. Waikar)
Additional Sessions Judge,
Kolhapur.

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	Sou.S.R.Tambvekar
Name of Court	Sou. A. S. Waikar Addl. Sessions Judge, Kolhapur
Date of Dictation	12-12-2024
Order signed by the P.O. on	12-12-2024
Order uploaded on	13-12-2024