


MHKO160000342022 	<u>ORDER BELOW EXH. 11 IN</u> <u>R.C.C.NO.20/2022</u>
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1. The applicant/accused has filed this application under Section 457 of The Code of Criminal Procedure for release of his mobile phone and vehicle in his favour.

2. The applicant/accused submits that he is registered owner of Vivo Y31 (IMEI No-866052054139773) and Access 125 M-Cycle/Scooter of Suzuki Motorcycle India Pvt Ltd having registration No. MH-09-FM-2408, Chassis No.-MB8DP11AKK8G13382 Engine No. AF216190895 (Above mentioned Vivo Y31 mobile phone and the vehicle is hereinafter referred to as, 'the mobile phone and vehicle').

3. It is further submitted by the applicant/accused that the mobile phone and vehicle are being used by him for his daily needs. Police have seized the mobile phone and vehicle in Crime No.228/2021, Shahuwadi Police station. The mobile phone is kept in switched off condition in the police station and the vehicle is kept in open place in the police station where proper care and protection is not taken. Therefore, the mobile phone and vehicle are being damaged. The applicant/accused is ready to abide any

condition which will be imposed while releasing the mobile phone and vehicle in his favour. Finally, he prayed to release the mobile phone and vehicle in his favour.

4. The learned A.P.P. has filed say on the application. Learned A.P.P. opposed this application stating that the mobile phone and vehicle are used for the commencement of the offence, hence, it can be used again by the accused in another offence, hence, prayed for rejection of this application. I.O. has filed filed say to this application stating that the mobile phone and the vehicle may be given to the applicant/accused on certain terms and conditions.

5. Heard Ld. Advocate for the applicant and Ld. APP. Perused report in C.R. no. 228/2021, copy of Adhar Card of applicant, Bill copy of the mobile phone, copy of R.C. Book of the vehicle. Admittedly, the mobile phone and vehicle are owned by the applicant/accused. The mobile phone and vehicle are subjected to vagaries of nature. The charge-sheet is filled and the case is pending for hearing. The offence is serious in nature are not the good grounds to reject the application. What is required during the pendency of the case is safe custody of the mobile phone and vehicle and it's production before the court as and when required by the court to do so. The applicant/accused is ready to abide by any condition which will be imposed by this court while releasing the mobile phone and vehicle in his favour. Considering all above aspects it will be proper to pass following order.

ORDER

1. The application Exh.11 is allowed.
2. The mobile phone and vehicle be released in favour of the applicant on furnishing indemnity bond of Rs.95,000/- (Rs. Ninty Five Thousand Only) before Police.
3. The applicant/accused shall produce the mobile phone and vehicle before the court as and when required by the court to do so during trial or at any time thereafter.
4. The applicant/accused shall not transfer the mobile phone and vehicle, shall not change their appearance in any manner without the leave of the court.
5. Police Station – Shahuwadi is directed to take 3 colored photographs of the mobile phone and vehicle from different angles clearly displaying the mobile phone and vehicle and shall submit it along with final report. Expenses of the photographs shall be born by the applicant.
6. The applicant/accused shall not use or allow the mobile phone and vehicle to be used for any illegal purposes.
7. The applicant/accused shall co-operate police in the investigation of the crime and shall produce all relevant documents of the mobile phone and vehicle before I.O. for verification and investigation purposes.

Date : 21/02/2023
Place: Shahuwadi

(Amol Shriram Shinde)
Judicial Magistrate First Class,
Malkapur-Shahuwadi