



Order Passed Below Exh.1
CNRNO.MHLA140010092021

The present application is filed by Najam Sattar Shaikh under section 457 of Code of Criminal Procedure for granting temporary custody of the vehicle i.e. a Hero Honda Shine Motorcycle registration bearing No. MH-24-AL-1487 bearing Chassis no.ME4JC651DF7041059 and engine No. JC65E70063324 which is seized by Killari Police station, in Crime No.41/2021.

2. The say of I. O. and APP was called.
3. I.O. has no objection to hand over the custody of vehicle motorcycle.
4. Ld. APP for the State submitted that the said muddemal is part and parcel of the evidence. Hence, he prayed for rejection of application.
5. The Ld. Advocate for the applicant has submitted that, police station Killari has seized the a Hero Honda Shine Motorcycle registration bearing No. MH-24-AL-1487 bearing Chassis

no.ME4JC651DF7041059 and engine No. JC65E70063324 which is seized by Killari Police station, in Crime No.41/2021. The applicant is the registered owner of the seized vehicle. The applicant is using the said vehicle for his daily work. If the said vehicle is not released the applicant would suffer huge loss. The Ld. Adv. For the applicant has submitted that, if the temporary custody of the said vehicle is granted in favour of the applicant, he would not change the nature of the said vehicle, he would not transfer the said vehicle and abide by all the conditions laid down by the court. He has further submitted that, the applicant is ready secure the presence of the said vehicle before the court as and when so directed by the court. There is also possibility of damage to the vehicle if left at one place. Hence, the Ld. Advocate for the applicant has prayed that the vehicle may be released in favour of the applicant Najam Sattar Shaikh.

6. Read the application and say. Perused the document. Heard Ld. Adv. For the applicant and Ld. APP for the state.

7. From the say filed by the I. O. it transpires that, a Hero Honda Shine Motorcycle registration bearing No. MH-24-AL-1487 bearing Chassis no.ME4JC651DF7041059 and engine No. JC65E70063324 which is seized by Killari Police station, in Crime No.41/2021, for the offence punishable under section 12 (A) of the Bombay Gambling Act. The applicant has produced on record copy of the FIR in Crime No.41/2021, and R. C. Book. On perusal of R. C. Book it appears that Najam Sattar Shaikh is the registered owner of

the said vehicle. The documents produced by the applicant show the registration number, chassis & engine number of said vehicle and the name of the applicant. There is no dispute in respect of ownership of the applicant to the seized vehicle.

8. The authority of **Sunderbhai Ambalal Desai Vs. State of Gujrat, AIR2003SC638** provides for direction to pass immediate and appropriate order for the disposal of the seized article for the vehicles etc. instead of keeping them for a long time at the police station.

9. If the said vehicle remained in the custody of the Killari Police Station, then there is possibility of junk and will be of no use. The learned A. P. P. has submitted that the seized vehicle is part and parcel of the evidence. However, it is to be noted that, there is no bar for a Magistrate to order interim custody of the property seized during investigation even though he is not competent to try the said offence. The I.O. has submitted his no objection to hand over the custody of seized vehicle. Considering the fact that, if the vehicle is kept at one place there is the possibility of junk to the said vehicle. Hence, it would be appropriate to lay down the conditions in respect of the possibility put forth by the I. O. and the APP. Hence, it would be just and proper to hand over the temporary custody of the vehicle to applicant on certain conditions. Thus, the following order.

ORDER

1. The application is allowed.

2. The vehicle i.e. a Hero Honda Shine Motorcycle registration bearing No. MH-24-AL-1487 bearing Chassis no.ME4JC651DF7041059 and engine No. JC65E70063324 which is seized by Killari Police station, in Crime No.41/2021 be given in interim custody of the registered owner on executing the indemnity bond of Rs.1,00,000/- (Rupees One lac only) before the concerned officer of the Killari police station on the following conditions:
- A) The registered owner shall produce the two latest coloured self-attested photographs of the said vehicle taken from closed view from two different angles at his own expense, to the officer in charge of Killari police station concerned officer for the identification of the vehicle. The officer shall facilitate such photography.
 - B) The concerned officer shall upon receiving such photographs shall counter sign the same and prepare a possession receipt cum panchanama after verifying original identity proof of the applicant, handover custody of the seized a Hero Honda Shine Motorcycle registration bearing No. MH-24-AL-1487 bearing Chassis no.ME4JC651DF7041059 and engine No. JC65E70063324 to the applicant and forward the photographs and the possession receipt forthwith.
 - C) The registered owner shall keep the said vehicle in identifiable condition and shall not change the original structure of the said vehicle.
 - D) The registered owner shall not sale, create any charge over

the said vehicle, cause change in the said vehicle till disposal of crime No. 41/2021.

- E) The registered owner shall produce the said vehicle and documents of ownership of the same as and when necessary and directed by the concern P. S. Killari/officer or in the Court.
- F) The papers of this proceeding, Indemnity Bond, Possession receipt cum Panchanama, compliance report be kept in charge-sheet of the Crime No. 41/2021.

Place: Killari

(Smt. P.R. Kulkarni)

Date: 06/08/2021

Judicial Magistrate First Class,
Killari.