

Order Below Exh. 01 in OMCA No.52/2016

01. This application is filed by the applicant Balaji Ghalgonda Julpe U/Sec. 457 of The Criminal Procedure Code for possession of seized auto bearing no.AP-25/X-3437, which has been seized in crime no.43/2016 of Naigaon Police Station.

02. Applicant is claiming the possession of his seized auto bearing no.AP-25/X-3437, on the ground that he is registered owner of the said vehicle. He also submitted that he is ready to abide any condition imposed by Court.

03. The Investigating Officer submitted that auto bearing no.AP-25/X-3437, may be released after verifying documents. The Spl. A. P. P. has also submitted say at Exh.6 stating that till investigation is in progress, he objected the application on the ground that the muddemal property need at the time of trial for identification and the muddemal property is essential part of evidence needed at the time of trial. The applicant may create third party interest or possibility of alienating the same, so it will difficult to identify the property at the time of trial. On these grounds he prayed for rejection of the application.

04. Applicant avers to be the owner of auto bearing no.AP-25/X-3437. In order to fortify this facts, he has produced the verified copy of particulars registration of vehicle issued by Addl. Registering Authority Nizamabad, at Exh.7, certified copy of First Information Report in crime no.43/2016 is filed on record at Exh.8. He has also produced verified copy of National Insurance Company Ltd. of applicant at Exh.9. He has also produced aadhar card of applicant at Exh.10. On its perusal, applicant appears to be the registered owner of vehicle.

05. Admittedly, investigation in Crime bearing no. 43/2016 is in progress. Merely, the investigation of the crime is in progress is not

sufficient ground to reject this application. The physical presence of the vehicle with the police for the purpose of investigation is now not necessary. The possession of vehicle can be given to applicant by imposing proper conditions. It is not advisable to keep the vehicle in police station premises indefinitely. It is more advisable to release it to the owner by imposing certain conditions during pendency of trial. It is also settled law that, the vehicle should handed over to registered owner. In present case, the applicant is registered owner. The non-use of vehicle and standing it in premises of police station may cause damage to the vehicle and may cause rusting of the body of the vehicle.

06. In such circumstances, I am of the view that the applicant is entitled to get the possession of the vehicle and the same can be given by imposing proper conditions. Hence, this application deserves to be allowed. Hence, I proceed to pass following order :-

ORDER

01. Application is allowed.
02. Auto bearing no.AP-25/X-3437, be handed over to applicant on furnishing the indemnity bond of Rs. 1,00,000/- of concern vehicle.
03. Applicant shall not change the nature of the vehicle.
04. Applicant shall not alienate or dispose of the vehicle in any manner during investigation and trial of this crime.
05. Applicant to produce the vehicle before the court as and when required.
06. This proceeding be kept along with the main case, which will be registered after filing of charge-sheet.

Date :- 26-4-2016

sd/-
(R.V. Nadagadalli)
JMFC, Naigaon Bz.

CERTIFICATE

I affirm that the contents of this PD.F file Judgment are same word to word, as per the original Judgment.

Name of the Stenographer : P. N. Karre

Court Name : Court of Judicial Magistrate F.C., Naigaon(Bz)

Date : 26-4-2016

Judgment signed by the Presiding Officer on : 26-4-2016

Judgment uploaded on : 26-4-2016