

MHNG180019112023

Reg. Criminal Case No. 204/2023**State Vs. Kashid @ Sohel****Order Below Exh.No. 4**
(Date 09th February, 2024)

This application has been filed by the applicant Ateequeur Anish Rahman to return his property under section 457 of the Criminal Procedure Code.

2. Heard learned APP for the State and Learned Advocate of the Applicant.

3. The applicant in the application is submitted that he is service manager at Ma Padmawati Motor Ashok Ley-land, Gondkhairi, Tah. Kalmeshwar, District Nagpur. In the stock yard of said company at Gondkhairi so many new Ashok Ley-land vehicle were stocked in the company premises. Ma Padmawati Motor Ashok Ley-land, Gondkhairi, Tah. Kalmeshwar, District Nagpur is the owner of the 10 batteries of Excide company. Police have registered Crime No. 944/2023 under section 379 of the Indian Penal Code. As per the complaint 12 batteries were stolen, but police has recovered only 10 batteries. The applicant is owner of the above said 10 battereis. The applicant is the employee of the said company. He was filed complaint against the accused on behalf of company. Therefore, he is entitled for the supratnama. He is ready terms and conditions imposed by the court. He will not sell, mortgage, gift, transfer and disposed of the said batteries till final disposal of the matter.

4. The learned APP filed his say and taken objection on this application. He submitted that there is dispute of wonership and applicant has not filed reliable documents of ownership of the battaries. Therefore, he prayed that the application has kindly be rejected.

5. Perused the application and charge sheet. It appears that the applicant namely Ateequeur Anish Rahman had given complaint to the police station on 26.10.2023 about theft of Exide company batteries from stockyard Gondkhairi against unknow theives. Thereafter, police have seized 10 Excide batteries from the custody of the accused. Therefore, batteries are property of the company of the applicant. Therefore, no purpose would be served in keeping the seized property lying in the police station without sufficient reason. The possibility of the damage to the property cannot be ruled out, if kept lying in the police station. The trial would not be concluded shortly.

6. Considering the nature of the seized property, its protection, guarding and safe custody are not practicable. Looking into the nature of the seized property, it may be degenerated or may lose its worth value. As the applicant has shown his ownership over the seized property, he is entitled to the possession of the same. Hence, I pass the following order.

ORDER

1. The application is allowed.
2. The property namely 10 battaries of Exide company be handed over to the applicant till the conclusion of the

trial on the applicant executing indemnity bond Rs. 35,000/-

3. The applicant to undertake that he shall not sell, modify or transfer the 10 batteries of Exide company without the prior permission of the court. The applicant to maintain and preserve the property in all respects.
4. The applicant shall produce the property in the court as and when directed.
5. The Investigation Officer is directed that he shall take photographs of the said 10 batteries of Exide company and prepare panchanama and submit it in the court.

Place :-Kalmeshwar
Date:- 09.02.2024

Sd/-
(R.L Rathod)
Judicial Magistrate First Class,
(Court No. 2), Kalmeshwar.