

**Sessions Case No. 27 of 2023***The State**Vs.**Bhaskar Shankar Sangamner**(Through Legal Heir Sandip Bhaskar Sangamner)***Order Below Exh.20.**

( Passed on 24 May, 2024 )

1. This is an application filed by the applicant / accused Sandip Bhaskar Sangamner, resident of Naraynagaon (Khedrwadi), Tal. Niphad Dist. Nashik who is legal heir of deceased Bhaskar Shankar Sangamner for seeking custody of muddemal property i.e. Red STP coloured Hero Honda Passion Motorcycle bearing registration No. MH-15/BH-1820 having Engine No. 04K08M23754 Chasis No. 04K09C23643 under Section 457 of the Code of Criminal Procedure. The applicant / accused submitted that the said property is seized by Saikheda police Station in Crime No. 35/2023 for the offences punishable under Sections 302, 201, read with Section 34 of Indian Penal Code. It is contended that his deceased father Bhaskar Shankar Sangamner was the registered owner of above-mentioned property. He is son and legal heir of deceased Bhaskar Shankar Sangamner, he is permanent resident of Naraynagaon (Khedrwadi), Tal. Niphad Dist. Nashik, he is an agriculturist, he needs the said vehicle for daily work, if the said vehicle is kept in idle condition in the police station for indefinite period, there is possibility of causing damage to its material parts due to natural calamities. Hence, he prayed to return the same.

2. The learned APP has filed his say to the application and has objected to give the custody of muddemal property to the applicant / accused on the grounds that the applicant is accused in the present crime, he has committed serious offence, the said vehicle is used in a very serious

crime, there is possibility of sale of said vehicle by the applicant / accused, so also, there is possibility that the said vehicle may be used again in another offences, if released.

3. Heard Learned Advocate for the applicant / accused and learned APP for the State. On going through the verified copies of Adhar Card of the applicant, certificate of registration (RC Book), it seems that the deceased Bhaskar Shankar Sangamnere was the registered owner of the vehicle in question. The applicant has also filed photo copy of death certificate of Bhaskar Shankar Sangamnere, who died on 07/01/2022.

4. In the case of **Tej Singh Vs. State of Haryana in CRM-N-46869-2019 ( Punjab And Haryana High Court) decided on 13 February, 2020, wherein the Hon'ble Lordships has observed :**

*“12. While dealing with the seized vehicles from time to time by the police either in commission of various offences or abandoned vehicles or vehicles which are recovered during investigation of complainant of thefts etc., Hon'ble Supreme Court observed in **Sunderbhai Ambalal Desai Vs. State of Gujarat : 2020 (10) SCC 283** as under :-*

*“17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police station for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”*

*“14. While giving the additional directions reproduced above, Hon'ble Supreme Court also observed as under :-*

*“15. It is a matter of common knowledge that as and when vehicles are seized and kept in various police stations, not only they occupy substantial space of the police stations but upon being kept in open, are also prone to fast natural decay on account of weather conditions. Even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than fifteen days. Apart from the above, it is also a matter of common knowledge that several value and costly parts of the said vehicles are either stolen or are cannibalised so that the vehicles become unworthy of being driven on road. To avoid all this, apart from the aforesaid directions issued herein above, we direct that all the State Governments/ Union Territories/ Director Generals of Police shall ensure macro implementation of the statutory provisions and further direct that the activities of each and every police stations, especially with regard to disposal of the seized vehicles be taken care of by the Inspector General of Police of the concerned Division/ Commissioner of Police of the concerned cities/ Superintendent of Police of the concerned district.”*

5. Learned A.P.P. for the State cannot show me any provision or decision of either Bombay High Court or Supreme Court, prohibiting release of the vehicle used for the offence punishable under Sections for the offences punishable under Sections 302, 201 read with Section 34 of Indian Penal Code, on Supurtnama. Therefore, considering the judgment of ***Tej Sing Vs. State of Haryana***, I find substance in the contention of the applicant because if the said motorcycle is kept in non-using condition then possibility of causing damages to its material parts cannot be ruled out. Investigation is over and charge-sheet has been filed in the Court. There is no substance in the fear of learned APP that the said vehicle may be used in similar offences. The applicant / accused is ready to furnish

indemnity bond. Hence, I have no hesitation to handover the muddemal property to the applicant on following conditions. Hence, the following order.

**ORDER**

- 1] The application is allowed.
- 2] The seized muddemal property i.e. Red STP coloured Hero Honda Passion Motorcycle bearing registration No. MH-15/BH-1820 having Engine No. 04K08M23754 Chasis No. 04K09C23643, be returned to the applicant subject to furnishing indemnity bond of Rs.50,000/- (Rupees fifty thousand only) with an understanding that he will not transfer or alienate or change the structure, nature of the seized muddemal property and shall produce before the Court as and when required.
- 3] The Investigating Officer is directed to get 4 to 6 photographs of the said vehicle from different angles and send the same to the Court alongwith charge-sheet or otherwise.
- 4] The applicant to furnish indemnity bond and undertaking before concerned Police Station. The accused shall undertake that he will not use the said vehicle for any other offence in future. In case of use of offence in another crime, vehicle is liable to be seized again.
- 5] Letter be issued to concern Police Station, accordingly, alongwith copy of this order.

*( Dictated and pronounced in open Court. )*

Sd/-

**( A. V. Gujarathi )**

Additional Sessions Judge,  
Niphad.

Date : 24/05/2024.

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(Exh.20)