

**ORDER BELOW EXHIBIT NO. 9**

This is an application under Section 451 of The Code of Criminal Procedure for return of muddemal property i.e., two wheeler motor cycle Honda Shine 125 bearing No. MH 42 BH 3966. It was seized in Crime Register No. 311/2023 for the offences punishable under Sections 379 of the Indian Penal Code by Walchandnagar Police Station. The charge-sheet is filed and Regular Criminal Case No. 221/2024 is registered.

2. It is contended by the applicant that the above mentioned muddemal i.e., two wheeler motor cycle Honda Shine 125 bearing No. MH 42 BH 3966 is owned by applicant. The said vehicle is seized in Crime Register No. 311/2023 by Walchandnagar Police Station from his possession. The said vehicle is lying at police station. It is contended that he is ready to abide by all terms and conditions that may be imposed by the Court and he will produce said vehicle as and when required by the Court.

3. The say of Investigating Officer and APP was called.

4. Investigation Officer submitted his say at Exhibit No. 12. It is submitted by the Investigation Officer that he has no objection on release of the seized above mentioned vehicle on terms and condition.

5. The learned APP filed his say on overleaf of an Exhibit No. 9 and opposed the application and prayed for rejection of application.

6. I have perused record, documents annexed with this application. The documents include FIR No. 311/2023, the copy of vehicle Registration Certificate, verified copy of Aadhar card of applicant and photocopy of insurance copy of the vehicle. On perusal of above mentioned documents it reveals that applicant is owner of the seized muddemal property i.e., two wheeler motor cycle Honda Shine 125 bearing No. MH 42 BH 3966.



7. As the Investigation Officer has no objection on release of muddemal property, it need not be detained till conclusion of trial. Moreover, charge-sheet is filed.

8. Though the applicant who is alleged to have committed an offence he requires the muddemal property for his daily use. The muddemal has specific utility in day to day life of applicant, hence, it may not be detained till conclusion of trial. Moreover, the muddemal property if kept in the police station unused for long period then it will cause damage to the muddemal.

9. The ratio laid down in Sundarbhai Ambalal Desai Vs State of Gujrat (AIR 2003 SC 638) will also have to be kept in mind. Hence, it is just and proper to return the cash in the custody of applicant. Hence, it is just and proper to release the muddemal property in the custody of applicant on following conditions. Hence, I pass following order :

### ORDER

1. Application is allowed.
2. The muddemal property i.e. two wheeler motor cycle Honda Shine 125 bearing No. MH 42 BH 3966 seized in Crime Register No. 311/2023 by Walchandnagar Police Station be returned to the applicant Shankar Tayappa Ghorpade on executing indemnity bond of Rs. 1,00,000/- (Rupees One Lacs only).
3. The P.S.O./I.O./Sr.PI. of the Walchandnagar Police Station is directed to hand over above mentioned muddemal to applicant on fulfillment of following conditions.
  - (i) The applicant to execute Indemnity Bond of Rs.1,00,000/-.
  - (ii) The applicant shall not make any alteration in muddemal property without prior permission of the Court and he shall produce the same as and when required in the Court and applicant shall not alienate it till conclusion of trial.



- (iii) The photographs of the muddemal be taken at the expense of applicant and panchanama of its handing over and condition of muddemal be also conducted.
4. Investigating Officer is directed to file copy of supurtnama and panchanama and photographs of above mentioned muddemal property in RCC No. 221/2024.

Place: Indapur.  
Date : 05/07/2024

(J. N. Bhasme)  
Judicial Magistrate First Class,  
Indapur.



| C E R T I F I C A T E                                                                                                       |                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| I affirm that the contents of this P. D. F. file judgment/Order are same, word to word, as per the original judgment/Order. |                                                                   |
| Name of the Stenographer                                                                                                    | P. D. Dudhbhate, Steno Grade. III                                 |
| Name of the Court                                                                                                           | Smt. J. N. Bhasme<br>Judicial Magistrate First Class,<br>Indapur. |
| Date of order/Judgment                                                                                                      | 05/07/2024                                                        |
| Judgment signed by the P.O<br>on                                                                                            | 05/07/2024                                                        |
| Judgment uploaded on                                                                                                        | 06/07/2024                                                        |