

ORDER BELOW EXHIBIT 37 IN R.C.C. NO. 297/2024**(Manoj Manshing Sathe Vs. The State)**

1. Learned advocate for applicant has urged for granting custody of seized property i.e. four wheeler Mahindra & Mahindra company Ltd.'s Model Thar LX DMT 2WD 45 HT bearing registration No. MH-45-A.W.-6000 chassis No. MA1UJ2TZ2R2A10516 and Engine No. TZPZM49391 belongs to the applicant seized by the police in Crime No.454/2024 registered for the offence punishable under sections 307, 353, 341, 427, 504, 506, 120(B), 143, 144, 147, 148 & 212 r/w 149 of the IPC, Section 135 of The Maharashtra Police Act and Section 7 of the Criminal Law Amendment Act at Indapur Police Station.

2. Learned advocate for the applicant has submitted that applicant is registered owner of the seized property. It is further submitted that, he requires the seized vehicle for his daily usage. If, it is kept in the custody of police for infinite time then there is possibility of damage to the vehicle because of its non-usage. The applicant has filed verified copy of Aadhar card, copy of Insurance Certificate of the seized property. So also, the applicant has filed verified copy of Registration Certificate of the seized property, wherein he is named as owner of the seized vehicle. Applicant also filed photo copy of FIR. Learned advocate for the applicant has also placed reliance upon following judgments –

- 1) *Swapnil s/o. Ganesh Gaikwad Vs. The State of Maharashtra (Criminal Writ Petition no.267/2020),*
- 2) *Sundarbhai Ambalal Desai Vs. State of Gujarat [Special Leave Petition (Cri.) 2745 of 2002].*

3. Say of I.O. and APP was called. Learned APP has strongly opposed the present application by filing at Exh.69. It is contended that, the seized vehicle is an important piece of the evidence. If seized vehicle is

released in favour of the applicant then he will modify and change its identity. Thus, prayed to reject the application.

4. Similarly, the I.O. vide his say Exh.68. Wherein, it has been contended that, seized vehicle was used by accused no. 1 to abscond from the spot after commission of above mentioned crime. If seized vehicle is released in favour of the applicant then accused no.1 will not produce before the police station for investigation. He further contended that, accused no.1 will again commit such type of serious offence. Thus, prayed to reject the application.

5. Heard both sides. Perused the application, say and documents filed along with the application. Also, I have carefully gone through the judgments relied upon by the applicant.

6. FIR shows that applicant is not an accused but her husband accused no.1 is an accused in the above mentioned crime.

7. In, Swapnil Gaikwad (Supra) Hon'ble Bombay High Court in para No.9 has observed as under,

“Seizure of vehicle in case triable by Court of Sessions does not operate as bar for Judicial Magistrate to exercise power vested upon him under Sec.457 of Cr.P.C..”

8. Moreover, in Sunderbhai Ambalal Desai (cited supra) Hon'ble Supreme Court has directed that immediate and appropriate order for disposal of the seized property should be passed by a Magistrate which has been kept for a long time at the police station. Because, the trial takes its own time to complete and till then possibility of seized property getting junk cannot be ruled out.

9. Hence, in my considered view, after imposing certain strict conditions the applicant is entitled for the interim custody of seized property

u/s.503 of the B.N.S.S.. Hence, following order-

ORDER

1. Application is allowed.
2. The applicant viz., Manoj Manshing Sathe, R/o. Darphal Seena, Tal. Madha, Dist. Solapur shall execute a Supurtnama bond before the Officer in Charge of Indapur Police Station, binding herself to produce the seized property i.e. four wheeler Mahindra & Mahindra company Ltd.'s Model Thar LX DMT 2WD 45 HT, its bearing registration No. M.H.45-A.W.-6000 chassis No. MA1UJ2TZ2R2A10516 and Engine No. TZPZM49391, as and when directed by the court and in default, to forfeit the amount of Rs. 15,00,000/- (Fifteen Lac Rupees) to the Government. Moreover, the applicant shall not sell, modify or alienate, said vehicle and also not to change its structure without permission of the Court.
3. The applicant shall furnish, at his own expenses, to the Officer-in-charge of Indapur Police Station, two self-attested colour photographs of the said vehicle, for its identification purpose. The police officer shall facilitate such photography.
4. After compliance of above referred conditions, Officer in charge of Indapur Police Station is directed to handover the above referred vehicle forthwith to the applicant.
5. The Officer-in-charge of Indapur Police Station shall, upon receiving such photographs, countersign the same, prepare a possession receipt-cum-panchnama, handover custody of the seized vehicle to the applicant and forward the photographs and possession receipt to the court along with charge-sheet.
6. Copy of this order be sent to the Officer-in-charge of Indapur Police Station, for compliance.

Date: 20/08/2024.

(M. H. Farooqui)
Judicial Magistrate First Class
Indapur, Dist. Pune.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/ Order are same word to word as per the original order.

Name of Steno. :- Shri. Chalwade G.S. (Stenographer-3)

Court Name :- Shri. M.H. Farooqui,
Civil Judge (Jr. Dn.) and J.M.F.C.,
Indapur, Dist. Pune.

Date :- 20/08/2024

Order signed by the :- 20/08/2024
presiding officer on

Order uploaded on :- 20/08/2024