

MHRG090002942020 **R.C.C. No. 27/2020**
State Vs. Shyam Maruti Bhoir

Order Below Exh. 8

This is an application filed by the applicant for getting back the custody of Tata Nexyus-26.S1S cycle seized in Crime No. 26/2020 registered at Roha Police Station for the offence Punishable Under Section 379 of the I. P. C.

2) Perused the say filed by the Investigating officer (Exh. 13). He has no objection to hand over the custody of the cycle to the applicant. Ld. A.P.P. is absent. Notice to the accused was issued. He has filed his say below Exh.15 and submitted that the cycle does not belong to him. He has prayed to pass appropriate order. Notice was issued to the witness Ajay Velshi Waghari from whose possession, the cycle was seized. He has filed his say below Exh.16 and submitted that the cycle does not belong to him. He has prayed to pass appropriate order.

3) In order to prove the claim, the applicant has filed verified copy of his adhar card and copy of FIR and copy of Tax invoice issued in the name of Sagar Phulare in respect of the cycle. Perusing the copy of FIR, the applicant is the informant in the alleged crime. On completion of the investigation, charge sheet is submitted. Seizure panchanama transpires that cycle is seized from the custody of Ajay Welshi Vaghari. He has denied his ownership over the cycle. The application is supported by the affidavit of the applicant. Therefore, in

view of these facts, the applicant is entitled to get it's custody.

4) Thus, considering the guidelines for releasing vehicle/goods issued by the Hon'ble Apex Court in *Sunderbhai Ambalal Desai Vs. State of Gujrat, 2002(9) Scale, page 153*; I am of the opinion that no purpose would be served by keeping said cycle idle at the police station. If it is kept lying, it will cause damage to it and deteriorate it's condition. Therefore, in the interest of justice present application deserves to be allowed by imposing certain conditions. Hence, for these reasons, following order is passed :

ORDER

- 1] Application is allowed.
- 2] Interim custody of Tata Nexyus-26.S1S cycle seized in Crime No. 26/2020 registered at Roha Police Station be handed over to the applicant till conclusion of trial on executing indemnity bond of Rs. 5,000/- (Rupees Five Thousand only) by the applicant.
- 3] Before giving the custody of aforesaid vehicle, I.O. should snap photographs from all sides of the vehicle at the cost of the applicant and shall draw panchanama in presence of two panchas describing the appearance of the cycle.
- 5] Photographs and panchanama be relied upon by the prosecution during the trial for proving the identification of the cycle.
- 6] Applicant is directed not to alter, modify, sale or change the condition the cycle or to create third party interest and he shall produce the same before the Court as and when directed.

- 7] I. O. is directed to submit the indemnity bond, panchanama and photographs in the present case.

(Issue letter to concern police station accordingly).

Date : 03/11/2020

(S. D. Kamalakar)
Judicial Magistrate (F.C.) Roha.