

MHRG170024672024	ORDER BELOW EXH. 31 IN SPECIAL CASE NO. 207/2024 State of Maharashtra Vs. Arif Jakir Shekh And 04 CNR NO. MHRG170024672024
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1. By this application, the applicant Anvesh Chaturbhuj Sullere has prayed for grant of interim custody of the vehicle bearing No.UP-95/S-4682.
2. Learned advocate Mr. D. S. Patekar for the applicant has submitted that previous application submitted by the applicant was rejected by learned J.M.F.C. and that when said order was challengd before my learned predecessor it was observed that if during investigation involvement of the applicant is established, interim custody of the vehicle cannot be assigned to him. However, according to Mr. Patekar, after due investigation the report has been submitted wherein the applicant has not been named as an accused. Therefore, according to Mr. Patekar it would be just to grant of interim custody.
3. Per contra, learned SPP Mr. A. S. Thakur has submitted that the vehicle was used by changing its number plate and that if the aforesaid vehicle is returned to the applicant, again it would be used in similar type of offence and therefore it is prayed for rejection of the application.
4. So far as interim custody of the vehicle is concerned I am

guided by the judgment of Hon'ble Supreme Court in Sunderbhai Ambalal Desai vs. State of Gujarat, MANU/SC/1110/2002. In the said decision of their Lordships the issue of release of vehicles seized in connection with crimes and parked at police stations has been dealt with and answered thus:

"17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations 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.

18. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then the insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If the insurance company fails to take possession, the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared."

5. Considering the law laid down by the Hon'ble Supreme Court and the fact that involvement of the applicant has not been surfaced during investigation, in my view it

would be just to hand over the custody of the vehicle to the applicant.

6. At the same time, this Court is required to consider the submission advanced by the learned SPP that the vehicle would be reused in the commission of similar type of the crime. Considering the fact that applicant resides at Uttar Pradesh and there are allegations in respect of transportation of the narcotic, stringent condition are required to be imposed upon the applicant. Hence, I proceed to pass following order.

:: ORDER ::

1. Application Exh.31 is hereby allowed.
2. The Muddemal property vehicle having registration No.UP-95/S-4682, Chassis No. MAIYU2XDUM6B11 956, Engine No.XDL4C10125 be returned to the applicant on his executing indemnity bond of Rs.4,00,000/- and the Bank guarantee of Rs.4,00,000/- be deposited with the Investigation Officer.
3. The investigation officer while returning the vehicle to the applicant shall snap photographs and draw detailed panchnama and place the same before this court.
4. The applicant shall bear the costs for snapping the photographs.
5. The applicant shall not destroy, transfer or change the nature of the vehicle till the trial is concluded.

6. He shall produce the vehicle before this court as and when required by this court at the time of trial.
7. The applicant himself or any other person on his behalf shall not use the vehicle in similar type of offence.
8. Inform the investigation officer.

**Panvel,
Dated :- 12/08/2025**

**(Dinesh E. Kothalikar)
Special Judge (NDPS),
Panvel Dist-Raigad.**