

Order Below Exh.44 in Spl. Case No.22/2022.

(CNR No. MHRT010007182022)

The applicant by name Mohan Bhagvan Harmale has filed this application under section 451 of Criminal Procedure Code, 1973 with a contention that, his Pulsar DTS bearing registration no. MH02CU0306 was seized by the police as it was used while committing of an offence. He is owner of the said two wheeler. He needs the said bike for his daily work. So, it is prayed that the said bike may be handed over to him.

2) Say is filed by the Investigating Officer at Exh.47 and given no objection to hand over the same on certain terms and conditions. Ld. Spl.P.P. has no objection to allow the application.

3) Heard Ld. Advocate Smt. S.S.Shedage for the applicant and Ld. Spl.P.P. Smt. V.D.Prabhu for the State.

4) Copy of registration certificate of the said vehicle filed on record along with Exh.45. The said bike is registered with Dy. R.T.O. Ratnagiri on 03/08/2012.

5) As far as considering ownership of the said vehicle, it lies with the applicant, so he is entitled to receive the bike .

6) As held in Sunderbhai Desai Vs. State of Gujarat, AIR 2003 SC 638 the powers under section 451 of Cr.P.C. should be exercised expeditiously and judiciously. It would serve various purposes namely;

(i) Owner of the article would not suffer because of its

remaining unused or by its misappropriation.

- (ii) The Court or the Police would not be required to keep the article in safe custody.
- (iii) If the proper panchnama before handing over the possession of the article is prepared, that it can be used in the evidence instead of its production before the Court through the trial. If necessary evidence could also be recorded describing the nature of the property in detailed.
- (iv) This jurisdiction of the Court to record evidence should be exercised promptly, so that there may not be further chance to tamper with the article.

7) Considering the above ratio, I allow the application on following terms and conditions. Hence, I pass the following order.

ORDER

- 1) Application is hereby allowed.
- 2) The applicant shall not sale the said vehicle without the permission of Court or tamper with the make, colour, chassis number and engine number of the vehicle. The applicant shall produce the said vehicle before the Court as and when required.
- 3) The applicant to furnish indemnity bond of Rs.1,00,000/- (Rs. One Lac Only).
- 4) Breach of any of the conditions shall result in the cancellation of the bond and the bike shall be taken into the custody by the Court at the costs of the applicant.

Place : Ratnagiri.
Date : 29/05/2023.

(V. A.Raut)
Extra Joint District Judge & Addl.
Sessions Judge, Ratnagiri.

- : C E R T I F I C A T E : -

Order Below Exh.44 in Special Case No.22/2022

I affirm that the contents of this Pdf file order are same words as per original order.

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| Name of Stenographer | :- Smt. V.S.Kulkarni |
| Court Name | :- The Court of Extra Joint District Judge & Addl. Sessions Judge, Ratnagiri (POCSO Court). |
| Date of decision | :- 29/05/2023. |
| Order signed by P.O. on | :- 29/05/2023. |
| Order uploaded on | :- 29/05/2023. |