

**ORDER PASSED BELOW EXH. 1 IN****CRIMINAL M.A. No.16/2026****CNR No.MHSI04-000256-2026****(Asif Naik V/s. State)**

1. The applicant Asif Abdulgafur Naik has filed this application for return of muddemal i.e.Tata company dumper bearing Chassis No. MAT37313491H19311 and Engine No.697TC56HQZ113038 registration No.GA-08-U-5977 manufactured in the year 2009 seized in C.R.No. 92/2026 by Kudal Police Station ["said vehicle" for short].
2. According to the applicant, now the said vehicle is lying with the Police Station Kudal since it was seized in C.R.No.92/2026 and it may cause damage to the said vehicle and therefore he requested to return the said vehicle. Applicant is ready to obey the conditions imposed by this Court. Hence the application.
3. I.O. i.e. J.G.Patil Police Inspector of Kudal Police Station has filed say at Exh.5 and stated that he has no objection to return said vehicle to the applicant by imposing certain conditions. Ld.A.PP filed her say at exh.6 and resisted said application for the reason that, investigation is in progress and applicant may use said vehicle for commission of same type of offences, if it is returned to him.
4. I have perused documents filed along with list *vide* Exh.4/2 to 4/5 i.e. Photo copy of statement of the applicant, Photo copy of registration certificate issued by R.T.O. MAPUSA, Photo copy of Pollution Under Control certificate and Photo copy of Insurance Policy. It shows that present applicant is the owner of said vehicle. On perusal of FIR filed at Exh.4/1 it comes to know that said offence is registered for the offence punishable under section 303(2) of the Bhartiya Nyay Sanhita which is triable by this court.
5. Hon'ble Apex Court in **Suderabai Ambalal Desai vs. State of Gujarat (AIR2003 SC 638)** directed to dispose of the application received under provision 503 of the BNSS expeditiously. As rightly pointed out by the Ld. Adv. for applicant, no fruitful purpose will be served by detaining the vehicle and refusing its custody to the applicant. No other person has claimed custody of the said vehicle nor anybody has raised objection to

present application till date. Alleged offence is triable by this Court. Thus, being owner of the seized vehicle applicant is entitled to its interim custody. In such situation, if seized muddemal is returned to the applicant by imposing certain conditions, purpose of prosecution will serve. Hence, there is no reason to refuse prayer of applicant. In the circumstances, I pass following order:-

--:- **ORDER** --:-

- 1] Application is allowed.
- 2] The applicant shall execute indemnity bond of Rs.3,00,000/- in front of the Investigation Officer of the C.R.No.92/2026 of Kudal Police Station for binding himself to produce the said vehicle as and when directed by the Court & in default to forfeit the amount of Rs.3,00,000/-.
- 3] The applicant shall furnish at his own expenses, to the Investigation Officer of C.R.No.92/2026 of Kudal Police Station four self attested colour photographs and photo copy of certificate of registration of said vehicle for its identification purpose. The Investigation Officer shall facilitate such photography.
- 4] Applicant shall not alienate, transfer and change the nature of said vehicle till final disposal of the said crime.
- 5] Applicant shall not use or allow to use said vehicle for commission of any offence.
- 6] The Investigation officer is directed to verified original documents of ownership of vehicle before handover the custody of seized vehicle.
- 7] The Investigation Officer of C.R.No.92/2026 shall upon receiving such indemnity bond and photographs, countersign the same, prepare a possession receipt-cum-panchanama, handover custody of seized vehicle of above stated chassis number, engine number & registration number to the applicant and forward the indemnity bond, photographs and possession receipt to the Court forthwith.

8] Indemnity bond and possession receipt-cum-panchanama be tagged with the final report which may be filed in above crime.

9] Copy of this order be sent to Investigation Officer, Kudal Police Station.

(Dictated & pronounced in open Court)

Date:-04.04.2026.

sd/-xxx
(G.A.Kulkarni)
Judicial Magistrate First Class,
Kudal.