

ORDER BELOW EXH. 1

The present application is filed by the applicant, namely Roshan Pasku Fernandes, under the provisions of Section 503 of the Bhartiya Nagarik Suraksha Sanhita, 2023, seeking interim custody of the motorcycle of Hero Company, Passion Pro model, bearing registration No. MH-07-AA-5968, Engine No. HA10ETFHD02056 and Chassis No. MBLHA10BJFHD02374.

2. It is the case of the applicant that he is the owner of the aforesaid motorcycle. It is contended that the said motorcycle was seized by the State Excise Department in connection with Crime Register No. 72/2026 registered for the offence punishable under Section 65(e) of the Maharashtra Prohibition Act, 1949. The applicant submits that he is engaged in painting work and requires the motorcycle for travelling to and from his workplace. It is further contended that if the vehicle remains lying in custody for a prolonged period, it is likely to deteriorate and lose its utility and value. The applicant has therefore prayed for interim custody of the vehicle and has undertaken to abide by any conditions that may be imposed by this Court.

3. The Investigating Officer has filed say at Exh. 4 opposing the application. It is stated that on 13/05/2026, during a raid conducted by the State Excise Department, the applicant was found in possession of 21 sealed bottles of Goa-made liquor and the said motorcycle bearing registration No. MH-07-AA-5968 was allegedly being used for transportation of the prohibited liquor. It is further stated that the investigation is in progress and information regarding ownership particulars of the vehicle has been sought from the Regional Transport Authority and is awaited. It is contended that the applicant has not

approached the Excise Department after seizure of the vehicle and that the vehicle constitutes an important piece of evidence in the case. The Investigating Officer has therefore prayed for rejection of the application.

4. The Learned Assistant Public Prosecutor has filed say at Exh. 5 opposing the application. It is contended that the applicant himself is the accused in the crime and that the motorcycle was seized from his possession while allegedly transporting illicit liquor. It is submitted that there exists a possibility of the applicant not producing the vehicle as and when required by the Court and that the vehicle may again be used for commission of similar offences if released. It is further contended that there is a possibility of alteration in the identity and appearance of the vehicle or transfer thereof to third parties. The prosecution has therefore prayed for rejection of the application.

5. I have carefully considered the application, the say filed by the Investigating Officer, the say filed by the prosecution and the documents placed on record. The material available on record reveals that the motorcycle bearing registration No. MH-07-AA-5968 came to be seized in connection with Crime Register No. 72/2026 registered for the offence punishable under Section 65(e) of the Maharashtra Prohibition Act, 1949. It is not disputed that the applicant claims ownership and possession of the said vehicle.

6. The principal objection of the prosecution is that the vehicle was allegedly used for transportation of illicit liquor and therefore constitutes an important piece of evidence in the case. However, the mere fact that a vehicle is involved in an offence or has been seized during investigation cannot by itself be a ground for retaining it in official custody

for an indefinite period. The evidentiary value of the vehicle can be adequately preserved by preparing a detailed panchnama and by taking photographs from different angles before its release.

7. At this juncture, it is relevant to refer to the judgment of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai v. State of Gujarat, AIR 2003 SC 638*, wherein it has been held that seized vehicles and properties should not be kept at police stations or in official custody for a prolonged period. The Hon'ble Apex Court has observed that such retention results in deterioration and depreciation of the property and that Courts should ordinarily pass appropriate orders for interim custody by taking adequate safeguards to ensure production of the property whenever required.

8. The apprehension expressed by the prosecution that the applicant may alter the vehicle, transfer it to a third party or use it for commission of similar offences can be effectively addressed by imposing stringent conditions while granting interim custody. Appropriate safeguards in the nature of a substantial Supurtnama, preparation of panchnama, photographs of the vehicle and restrictions against alienation or alteration of the vehicle would adequately protect the interests of the prosecution.

9. Further, a motorcycle is a movable property susceptible to deterioration on account of prolonged exposure to sun, rain and other climatic conditions. Retaining the vehicle in official custody till conclusion of the trial, which may take considerable time, would serve no useful purpose and would only result in depreciation of its value. The purpose of investigation and trial can be sufficiently safeguarded by imposing appropriate conditions ensuring production of the vehicle whenever

required.

10. Considering the nature of the property, the law laid down by the Hon'ble Supreme Court, and the fact that the evidentiary requirements can be preserved through photographs and panchnama, this Court is of the considered opinion that the application deserves to be allowed subject to stringent conditions. Hence, the order.

ORDER

1. The application is allowed.
2. The Deputy Inspector, State Excise Department, Kankavli Unit No. 1, is directed to release interim custody of the motorcycle of Hero Company, Passion Pro model, bearing registration No. MH-07-AA-5968, Engine No. HA10ETFHD02056 and Chassis No. MBLHA10BJFHD02374, to the applicant Roshan Pasku Fernandes, upon execution of a Supurtnama in the sum of ₹1,00,000/- (Rupees One Lakh only), to the satisfaction of this Court, for production of the vehicle as and when required.
3. Prior to release of the vehicle, the Investigating Officer shall verify the identity of the applicant and prepare a detailed panchnama of the vehicle, including its present condition.
4. Photographs of the vehicle from different angles shall be taken at the cost of the applicant and the same shall be preserved along with the case papers.
5. The applicant shall not change the colour, structure, registration particulars or identity of the vehicle and shall not sell, transfer, alienate, encumber or create any third-party interest in respect of the vehicle without prior permission of the Court.
6. The applicant shall preserve the vehicle in the same condition in

which it is released and shall produce the same before the Court, Investigating Officer or State Excise Department as and when directed during the course of investigation or trial.

7. In the event of involvement of the said vehicle in any similar offence during pendency of the proceedings, the prosecution shall be at liberty to seek cancellation of the interim custody granted by this Court.
8. The Supurtnama shall remain operative till conclusion of the trial or until further orders of the Court.

Date - 09/06/2026

(Shubham G. Laturiya)
JMFC, Kankavli.
J.O. Code:-MH03297