

**Order below exh.24 in Special Case(MCOCA) No.28/2020****(CNR : MHSN04-000578-2020)**

(State Vs. Anmol Madane &amp; Others)

By virtue of present application the applicant/accused no.2 Gurusiddha Laxman Jadhav is seeking interim custody of motor cycle & Scooter of Honda make bearing registration No. MH-10-DB-9221 seized by Islampur police station in the Crime No. 13/2019 for the offence punishable u/s 394 r/w 34 of the Indian Penal Code and Section 3(i)(ii), 3(2), 3(4), 3(5) of the MCOC Act, 1999.

2. The investigation officer has given say at exh.30 through APP and resisted the application inter alia contending that applicant/accused has used the said vehicle in serious offence u/s 394 r/w 34 of the Indian Penal Code and Section 3(i)(ii), 3(2), 3(4), 3(5) of the MCOC Act, 1999. Applicant/accused Gurusiddha Laxman Jadhav was absconding at the time of filing charge-sheet. After arresting him, supplementary charge-sheet no.30/2020 is filed in the Court. The possibility of using the said vehicle in such type of any other offence, tampering of prosecution evidence i.e. changing of colour or disposing of or transferring the said vehicle to any other person cannot be ruled out. Thus, he requested to reject the application for return of the vehicle.

3. Heard both the parties. The investigation officer and learned A.P.P. opposed the application. From the verified xerox copy of R.C. book produced along with this application (Exh.24) it appears that applicant/accused is the owner of the vehicle in question. The charge-sheet is filed after completion of the investigation and the

motorcycle is lying idle in police station and therefore, there will be damage to the said vehicle. Applicant/accused has contended that he has purchased the said vehicle for his household and labour work. The applicant/accused has shown his ready and willingness to abide by all the terms and conditions which will be imposed on him by the Court while granting application. He has given undertaking that he will not change, alter or dispose of or transfer the vehicle in any manner to any body and that he will return the said vehicle at any time, if ordered by this Court. It appears from the contents of the application (Exh.24) that he has not produced any copy of insurance of the said vehicle along with this application and therefore, it will be proper to hand over interim custody of the vehicle to applicant/accused after furnishing copy of the insurance of the said vehicle to the I.O. or if not already insured, the applicant/accused should insure the said vehicle first and its copy be given to the I.O., while handing over interim custody of the said vehicle on bond to applicant/accused.

4. In such circumstances, the interim custody of the vehicle in question with the applicant/accused appears to be just and proper. Vehicle is lying idle with Islampur with police station since last one year. As per Judgment of Hon'ble Apex Court in the case of Sunderbhai .vs. State of Gujrat AIR 2003 (SC) 638, vehicle is to be released forthwith. Therefore in my view, by imposing some conditions on applicant/accused no.2 and producing copy of insurance of the said vehicle before the I.O., the interim custody of the vehicle can be handed over to the applicant/accused no.2 on

bond. Therefore, I pass the following order, which is conditional one:

**: ORDER :**

1. Application (Exh.24) is allowed.
2. Interim custody of the vehicle motor cycle bearing registration No.MH-10-DB-9221 seized in Crime No.13/2019 registered with Police Station, Islampur for the offences punishable under Sections 394 r/w 34 of the Indian Penal Code and Section 3(1)(ii), 3(2), 3(4), 3(5) of the MCOC Act, 1999 be given to the applicant/accused no.2 Gurusiddha Laxman Jadhav on his executing indemnity bond of Rs. 75,000/- (Rs. Seventy-five thousand only) before the I.O., Police station, Islampur on condition that he shall not change the nature & appearance of the vehicle, shall not use it for illegal purpose and shall not transfer the same or dispose of the same in any manner till final decision of the present matter.
3. The applicant/accused shall produce the vehicle in question before the court as and when required till final decision of the matter.
4. The applicant/accused shall furnish copy of valid insurance certificate of said vehicle to the I.O. while taking interim custody of the vehicle.
5. The Investigation Officer is directed to hand over the possession of motor cycle after drawing its panchanama and snapping photographs of the vehicle in question by keeping visible its number plate and to submit indemnity bond, panchanama and photograph in final report.
6. Issue letter to Police Station, Islampur accordingly.

Sd/-xxx

Islampur  
Date:16/12/2021

[S.M. Chandgade]  
District Judge-1/Special Judge,  
Islampur.

CERTIFICATE

I affirm that, the contents of this P.D.F. file, are same word to word, as per the original order.

Name of Stenographer	:	K.S.Shinde, (Steno Grade-I)
Court Islampur	:	DJ-1 & Addl. Sessions Judge,
Date	:	16/12/2021
Signed by Presiding officer on	:	16/12/2021
Uploaded on	:	16/12/2021