

REGULAR CRIMINAL CASE NO.47/2022
[Order Passed Below Exh.4]
[State of Maharashtra V/s. Vishwanath Ashok Shinde]

1. Perused the application filed under Section 457 of Code of Criminal Procedure for return of property i.e. Hero Motocrop Ltd. xtreme 200R (WITH ABS) which has been seized in C.R.No.21/2022, registered at Tasgaon Police Station under section 323,504,506 of the I.P.C and Section 39,42,45 of Maharashtra Money Lending (Regulation) Act, 2014 and as per the applicant, he is the owner of the said vehicle seized by Tasgaon Police Station, in C.R.No.21/2022 and in need of it for his daily use. He is ready to abide by the terms and conditions imposed on him and ready to furnish bond as per directions. Applicant has filed copy of vehicle particular of motorcycle, Insurance Policy Paper of motorcycle and xerox copy of Adhar card.

2. The Ld. A.P.P. filed his say on the application itself also I.O. filed his say at Exh. 9 and submitted that they have no objection to return to said Vehicle to the applicant by imposing certain conditions.

3. Heard both sides. Perused documents filed on record. On this point, I would like to take the help of the observations of the Apex Court in the case of, "Sunderbhai Ambalal Desai Vs. State of Gujarat reported as 2003 SCC(Cri) 1943". The Apex Court by referring its previous judgment in case of "Basavva Kom Dyamangouda Patil Vs. State of Mysore (1977) 4 SCC 358" has reproduced para 4 of the said judgment as under:

" The object of the scheme of the various provisions of the Code appear to be that where the property, which has been the subject of an offence is seized by the police, it ought not to be retained in the custody of the court or of the police for any time longer than what is necessary. As the seizure of the property by the police amounts to a clear entrustment of the property to a Government servant, the idea is that the property should be restored to the original owner after the necessity to retain it ceases."

4. The Tasgaon Police Station Police has seized the said vehicle from

the possession of accused. Hence, upon perusal of material on record it appears that police have seized above vehicle. The Applicant is the owner of the said vehicle as shown from the documents produced before the Court. It will caused damaged if it is kept idle in the Police station as it is. Hence, I have no hesitation temporarily to hand over the seized vehicle to applicant on certain conditions. Hence, the following order.

:: ORDER ::

- 1 Application is allowed.
- 2 The seized Hero Motocrop Ltd. xtreme 200R (WITH ABS) bearing Registration No. MH-10-DE-6371 seized by Tasgaon Police station in C.R. No.21/2022, be released in favour of applicant Ajinkya Dashrath Rakshe by executing his bond of Supurtnama (Indemnity Bond) of **Rs.85,552/-(Rs. Eighty Five Thousand Five Hundred Fifty Two only)** for vehicle with following conditions :
 - a He shall not dispose of the vehicle by transfer, mortgage, sale or by any other means till final decision of case.
 - b He shall produce the vehicle as and when required by the Court during the trial.
 - c He shall not change the color, nature of the property.
- 3 Police station officer, Tasgaon Police Station, Tasgaon is directed to prepare the panchnama of vehicle and take its photographs prior to release the same and counter signed by the applicant at applicant's cost and submit it on record.
- 4 Indemnity Bond be furnished before the Investigating Officer.
- 5 Copy of this order be attached with remand paper/chargesheet.

Tasgaon.
Date : 16.06.2022

(Smt. R.S. Kulkarni)
Judicial Magistrate, F.C. Tasgaon.

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

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| Name of the Stenographer | : | D.S. Pawar |
| Court | : | 2 nd Jt.Civil Judge Jr.Dn. and Judicial Magistrate F.C., Tasgaon. |
| Date | : | 16.06.2022 |
| Order signed by the Presiding officer on | : | 17.06.2022 |
| Order uploaded on | : | 17.06.2022 |