

COMMON ORDER BELOW EXH. NO. 21 AND 22

(Passed on dated 04th January 2018)

01. Applicants are seeking delivery of seized muddemal tractor and trolley as per section 451 of Criminal Procedure Code (hereinafter referred as 'CrPC' for brevity).

02. As per applicants they are owner of seized Mahindra tractor having registration no. MH-45/S-4415, Chasis no. NSHA01260, Engine No. NSHA 01260 colour red owned applicant Bharat Pandurang Markad and Vinay Industries trolley having registration no. MH-42 /F-4601, chasis no. VE No. 2007 owned by Sagar Bhikaji Takale which are seized by Police in this crime. As per them, as investigation is completed and they themselves along with others are charge sheeted, so no required seized tractor and trolley which are keep in idle condition in the premises of Police Station, Karmala, so as per them, in case muddemal properties are kept in such a condition then their utility will be diminished, but those are required for their business on which they themselves and their family members were maintained as well as they have to repay loan, thereby, requested to allow application.

03. Ld. APP objected application on the ground that applicants had used seized properties for committing offence and in case properties delivered to them, then they will again use for the same illegal activity, so requested to reject application.

04. Heard Ld. Counsel shri. K. V. Veer for applicant and Ld. APP Sou. S. C. Salvi for prosecution.

05. As seen from charge sheet it is alleged that accused used tractor and trolley for the purpose of unauthorized carrying sand, thereby, seized in said crime, but now accused persons are charge sheeted and muddemal properties are not required for investigation purpose, so shri. Veer has made correct submission that in case vehicles are kept in idle condition, then its utility will diminish. It cannot be presumed that accused will use properties for illegal activities, so, seized properties are required to deliver to applicants who are as per RC books owners of seized tractor and trolley. They have also filed on record insurance cover note of tractor and trolley as well as driving license of one Tukaram Namdev Masal, thereby, required to deliver it to applicants who are right claimant, hence following order:

ORDER

01. Applications are allowed in the terms of prayer clause on following conditions:

A. Officer in-charge of the Police Station, Karmala, is directed to deliver vehicle Mahindra tractor having no. MH-45/S-4415, Chasis no. NSHA01260, Engine No. NSHA 01260 colour red and Vinay Industries trolley having no. MH-42 /F-4601, chasis no. VE No. 2007 seized in Crime No. 445/2017 at his Police Station;

B. Applicant no. 1 Bharat Markad to execute indemnity bond of Rs. 7,00,000/- and applicant

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RCC No. 191/2017
State Vs. Sagar & ors.

no. 2 Sagar Takale to execute indemnity bond of Rs. 2,00,000/- respectively on sufficient valued bond in court proceeding;

C. Applicants shall not change basic structure or nature or colour of the vehicle and shall not create third party interest on said vehicle without prior permission of the Court and shall produce the vehicle as and when required either by IO or Court;

D. IO to take photographs of vehicle prior to releasing same;

02. Inform to concerned.

Date: 04.01.2018

(BHAGWAN D. PANDIT)
Judicial Magistrate, First Class,
(First Court)Karmala,
Dist. Solapur.

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RCC No. 191/2017
State Vs. Sagar & ors.

CERTIFICATE

I affirm that the contents of this PDF file Judgment is same word to word as per the original order.

- (a) Name of the Stenographer : Kokate S.V.
- (b) Court : Shri. Bhagwan D. Pandit, Civil Judge, J.D. & J.M.F.C. Karmala.
- (c) Order signed by P.O. on : 04/01/2018.
- (d) Order uploaded on : 05/01/2018.