

MHWS080008632026

Cri.M.A. No.89/2026

Shaikh Salim ..Vs.. State



ORDER BELOW EXH. 01

Perused the application say also perused and the documents filed along with it.

2] This is an application filed by the applicant namely Shaikh Salim Shaikh Ismail Qureshi for returning of his Mahindra company Bolero bearing registration No. MH-36-H-7616, Chassis No. MA1WG2GHKG5B52488 Engine No.GHG4A55890. The Ld. Counsel for the applicant submitted that, the investigation in crime is likely to be concluded in near future.

3] The applicant has filed the following documents :-

- a) Xerox copy of F.I.R.
- b) Verified copy of Adhar Card.
- c) Verified copy of R.C. Book.
- c) Verified copy of Insurance.

4] It is submitted by the applicant that, applicant is the registered owner of the vehicle and also uses the said vehicle for his daily work and he requires the same. He further submitted that, if the vehicle lying in the custody of police then it would result in

deterioration of its condition and value. Therefore he prayed for interim custody of said vehicle upon certain conditions and he assured to abide by.

5] The Investigating Officer has filed his say on Exh.No.5 and resisted the application. As per his contentions, above said vehicle is seized in an offence registered under Cr.No.457/2026 under Section 106/(1),281,125(b) of BNS. There is involvement of vehicle in crime. If the vehicle will release then there is possibility to change the nature of vehicle and also possibility to commit such type of offence in future. Lastly, I.O. requested to reject the application. Ld. A.P.P. has filed her say below Exh.6 and resisted the application. She contended that, there is involvement of present vehicle in crime. The said vehicle is an important evidence against accused. She further submitted that, vehicle is not insured on the date of accident. She relied on Jaiprakash ..Vrs.. M/s National Insurance Co. Ltd. and it is contended that, the interest of the victim/legal heirs is require to be protected. Lastly she prayed to reject the application.

6] From the documents it appears that applicant is owner of seized vehicle. Moreover, no person has preferred adverse claim against the applicant in respect of said vehicle. From the FIR it appears that, incident took place on 05/05/2026 and the vehicle was uninsured on the date of the accident. The Ld. Advocate for applicant also admitted that, the vehicle is not insured.

7] Ld. APP Submitted that, the above said vehicle was not insured at the time of accident. She relied on the Judgment of Hon'ble Apex Court in Spl. Leave Ptn. (Civil) No. 11801- 11804 of 2005 Jaiprakash vs M/s National Insurance Company & Others decided on 17/12/2009. She further submitted that, in this matter the Hon'ble Apex Court held that, where there is no insurance cover for the vehicle the vehicle may not be released easily. The owner should be directed to offer security or deposit an amount adequate to satisfy the award that may be ultimately passed as a condition precedent to release the vehicle seized in the accident case. If such security or cash deposit is not made within period of three months case be taken for disposal of the vehicle and hold the sale proceeds in deposit until the claim case is disposed off. Therefore, requested to reject the application or otherwise the applicant be directed to deposit amount for future.

8] Considering the argument of the both sides. As per the Judgment relied by Ld. APP in Judgment of Hon'ble Apex Court in Spl. Leave Ptn. (Civil) No. 11801-11804 of 2005 Jaiprakash vs M/s National Insurance Company & Others decided on 17/12/2009 the Hon'ble Apex Court held that, “ Where there is no insurance cover for a vehicle, the owner should be directed to offer security or deposit an amount, adequate to satisfy the award that may be ultimately passed, as a condition precedent for release of the seized vehicle involved in the accident. If such security or cash deposit is not made, within a period of three months, appropriate steps may be taken for disposal of

the vehicle and hold the sale proceeds in deposit until the claim case is disposed of ”.

9] Admittedly the vehicle was not insured at the time of the accident. In such circumstances the direction of the Hon'ble Apex Court in respect of release of the vehicle are necessary to follow and security be taken which will satisfy the claim of the claimant in MACP. If the owner of the vehicle is ready to furnish the security. It would not be proper to keep the vehicle in police station. It is not proper to decide the amount of compensation which would be granted by the Hon'ble MACT. Hence, the security of the value of the vehicle involved in the accident be taken into consideration. Considering the age of the vehicle and documents on record the value of vehicle may be Rs.3,00,000/-. Hence, it would be proper to take the security for value of Rs.3,00,000/- to offer the security for the award.

10] Admittedly, said vehicle has been kept lying in the Risod police station. If such vehicle is kept continued, then possibility of damage or rusting of the vehicle cannot be ruled out. The commencement and conclusion of trial in the near future is not in the sight. Therefore it would be just and proper to hand over the interim custody of the said vehicle to the applicant. However, the trial would necessitate the production of the vehicle. Therefore it needs to be released on certain terms and conditions as per the ratio laid down by Hon'ble Supreme Court in Sundarbhai Ambalal Desai & C. M.

Mudliya ..Vrs.. Gujrath State, A.I.R. 2003 S.C.638 case. Therefore it needs to be released on certain terms and conditions. Therefore I proceed to pass the following order.

ORDER

- 1] Application is allowed.
- 2] The muddemal property i.e. vehicle Mahindra company Bolero bearing registration No. MH-36-H-7616, Chassis No. MA1WG2GHKG5B52488 Engine No.GHG4A55890 seized by Risod police station in Crime No.457/2026 be given in custody of the applicant till the conclusion of the trial, after verifying the chassis number and engine number of the vehicle, on the following conditions -
 - a) The applicant shall execute a personal bond of Rs.3,00,000/- and also furnished one solevent surety in Rs.3,00,000/- to the satisfaction of the court.
 - b) The applicant shall produce the above vehicle in the Court as and when this Court requires by it's order.
 - c) The applicant should not alienate, dispose off or change the structure or nature of said vehicle in any manner till the final decision of case filed under Crime No.457/2026.
 - d) The applicant shall not use the said vehicle committing in any offence.
- 3] The Investigating Officer is directed to prepare the detailed panchanama and to take the photographs of seized vehicle covering various dimensions before handing over to the applicant at the cost of applicant.

- 4] The Investigating officer is directed to send the above suprutnama and indemnity bond executed by the applicant and above mentioned panchnama along with charge-sheet.
- 5] Issue letter to the concerned Police Station accordingly.

(Dinesh M. Gaikwad)
Judicial Magistrate, F.C.
Court No. 2, Risod.

Date: 03/06/2026

CERTIFICATE

I affirm that the contents of this P.D.F. File Order are same word to word, as per the original **Order**.

Name of the Stenographer	: B. V. Bhisade, (Grade-III)
Name of court	: 2 nd Jt. C.J.J.D. & J.M.F.C., Risod.
Date	: 03/06/2026
Order signed by the Presiding Officer	: 03/06/2026
Order uploaded on	: 03/06/2026