

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, YAVATMAL.

Spl.C. No.90/2023
State ..Vs.. Yashwant
CNR NO.MHYA010016332023

Order passed below Exh.19
(Passed on 20th July, 2024)

This is an application filed by accused No.1 Yashwant Jangu Ade for release of Motorcycle, bearing registration No. MH-29/X-3856, seized by P.S.O., Parwa, Tq. Ghatanji, Distt. Yavarmal, in Crime No.285/2023, registered under sections 376, 376(2) of the Indian Penal Code and Sections 3, 4, 7 and 8 of POCSO Act.

2. The contention of Accused No.1 is that he is the owner of motorcycle numbered as above. The motorcycle has been seized by the police in crime No.285/2023, registered with police station Pawra, Tq. Ghatanji, Distt. Yavatmal. Presently the seized motorcycle is lying open to sky within premises of police station Parwa, Tq. Ghatanji, Distt. Yavatmal. This neglect might lead to mechanical fault in vehicle. Also with time there is apprehension of damage to it. The crime has been investigated. Its trial will take time. No purpose would be served by keeping the motorcycle detained. He is in dire need of the vehicle for his daily work. He is willing to abide conditions on which vehicle may be released. He undertakes not to dispose off the same. Hence, application for relief laid above.

3. On the application say of A.P.P. and I.O. was called. APP vide say Exh.22 has opposed release of vehicle. It is submitted that the vehicle was used by the accused person at the time of committing crime. The vehicle came to be seized vide seizure panchanama. It is involved in serious offence. If it is released, there is danger of it being disposed off and not produced at time of trial. The vehicle may also be

used for committing another crime. Original papers of vehicle have not been filed. Prima-facie case is made out against accused.

4. IO vide say Exh.23 has opposed the application. It is contended that the trial is pending. The seized motorcycle is an important piece of evidence since it was used by accused to kidnap the victim. If it is released the accused will not produce it before police station or Court when directed. If released he might dispose, sale or destroy the same.

5. Perused application, say and documents filed on record. Heard counsels of both sides. The applicant counsel had contended that the documents pertaining to motorcycle are in the custody of police station itself. In view of the same the police station was called to tender true copies thereof. However, in spite of opportunity the police station did not tender the same. This was also informed to Court by applicant/accused vide pursis (Exh.29) and affidavit (Exh.24). In view of above, to avert procrastination and in interest of justice the application was proceeded to be dealt with.

6. In support of application the applicant has filed on record along-with list (Exh.20) computer generated vehicle particulars from the site of Government of Maharashtra and copy of registration certificate. They manifest him to be the owner of motorcycle bearing No. MH 29 X 3856. He has also filed his Aadhar card in regard to his identity and address. From the charge-sheet filed in regard to this matter it is manifest that motorcycle is alleged to have been utilized by applicant/accused No.1 to commit crime.

7. At this stage, except the applicant there is no other claimant who has claimed the custody of seized motorcycle. Admittedly the said motorcycle cannot be termed as weapon and no

purpose is likely to be served by detaining the same in custody of Investigating Agency till conclusion of trial particularly when the investigation is completed and charge-sheet has already been filed in the case and accused released on bail. On the other hand, there is every possibility that the Motorcycle might get damaged in case it is kept open to sky. No prejudice is likely to be caused to prosecution since there apprehension can be addressed by imposing condition. Hence, the order.

ORDER

1. Application is allowed.
2. The Motorcycle bearing registration No. MH-29/X- 3856 seized by P.S.O., Parwa, Tq. Ghatanji, Distt. Yavatmal, in Crime No.285/2023 (Spl. Case No.90/2023) be released in favour of the applicant Yashwant Jangu Ade, R/o Jalandri, Tq. Arni, Distt. Yavatmal on executing the Indemnity bond of Rs.80,000/- on following conditions.
 - a] The applicant shall not sell, transfer, alienate, dispose off the Motorcycle or any part of it to any third person before the conclusion of the trial.
 - b) He shall not change the nature, colour, outer feature in any mode or manner so as to change their identity or affect recognition.
 - c) He shall produce the same as and when directed by this court.
 - d) He shall not use said Motorcycle or permit it to be used in commission of any crime.
 - e) He shall be bound to follow the imposed condition scrupulously failing with the order may stand canceled.
 - f) He shall produce verified copy of his identity and address

and original for perusal and verification.

3) The Investigating officer is directed to take the above Indemnity bond of the applicant Yashwant Jangu Ade. Muddemal to be returned after taking photographs of the same from all sides after due verification on preparation of panchanama. Entire set of documents be filed by Investigating Officer in Spl. Case No.90/2023. On filing it be attached with charge-sheet.

Place:Yavatmal
Date :20/07/2024

(S.R. Sharma)
Additional Sessions Judge,
Yavatmal