

MHYA100004192026

**ORDER BELOW EXH.1 ON SUPURTNAME APPLICATION**(Passed on 27th March 2026)

1) Perused application filed by the applicant Shri. Kamlesh Bhanudas Chaphale, R/o: Kumbezari, Tq. Jiwati, Dist. Chandrapur for releasing the Mahindra Bolero Pick Up FB PS 1.3T bearing registration no. MH 34-BZ-8850 and CH. No. MA1ZN2TTKS6A25147, and Engine No. TTR4M26531 seized by the Police Station Padharkawala in crime No. 311/2026 during investigation. It is the contention of the applicant that P.S. Pandharkawada had registered an offence under sections 5, 5-A, 9 of the Maharashtra Animal Preservation Act, 1976, under section 11 (1)(c), 11 (1) (d), 11(1)(g), 11 (1)(j) of The Prevention of Cruelty to Animals Act, 1960 and The Maharashtra Police Act, 1951 read with section 119. It has been contended by the applicant that Pravin Kisan Jadhao has purchased two cattle from APMC Warora for his agricultural purpose. The applicant was carried the said cattle for the selling in the market at that time the police seized the cattle and vehicle. It is further contended that, the applicant is the real purchaser of the said vehicle. It is further submitted that the applicant wants to get release the aforesaid vehicle for his business use. Further, he is ready to abide by all terms & conditions imposed by the court. Hence, prayed for releasing the aforesaid vehicle.

2) In respect of the application say of I.O. and APP were called. They have raised objection on releasing the aforesaid vehicle on

Supurtnama stating that the vehicle if released then there is every possibility of committing same crime again. There is likelihood of transfer the said vehicle to another person. The Chaitanya Gorakshan Sansthan has filed their say stating that the vehicle carrying two cattle in a cruel manner without proper and just care and against the rule of preservation of animal without any permit and license. As such, the application be rejected and further prayed that per day per cattle Rs. 400/- to 425/- expenses is born by the Gorakshan Sansthan. As such the applicant is liable to pay the maintenance charges. Hence, the application be rejected.

3) I have gone through the say, contents of application and submissions forwarded before the Court. I have also gone through the record minutely. The documents filed on record i.e. (1) Copy of Registration certificate of the vehicle in verified form (2) Verified Copy of Insurance certificate (3) verified copy of Adhar Card of applicant (4) Copy of FIR. All these documents shows that, the above mentioned Vehicle registered in the name of the applicant. Thereby prima facie ownership over the aforesaid vehicle have been established. The applicant has filed her Adhar card for his identification. The applicant also relied on the case law of the Hon'ble Bombay High Court Nagpur Bench in **Mohmmad Razique Vs. State of Maharashtra**. Decided on 24/08/2022. *It is held that, though the vehicle is seized for the offence under the special statute, no specific provision is brought to the notice about confiscation of vehicle. In absence of such provision under the Rules of 2017, the general provisions contained under Chapter XXXIV of the Code of Criminal Procedure would apply. The Trial Court will take considerable time for disposal of case. Certainly, if the vehicle is kept lying at the police station, during passage of time it would*

become worthless. Therefore, though the vehicle can be held as security, the interim custody can be given to the petitioners on certain terms and conditions.

4) It is pertinent to mention here that, in the present the provisions of Animal Preservation Act, 1976 along with the offences of Prevention of Cruelty to Animals Act, 1960 were involved.

5) Now, coming back to the hub of the matter, perusal of F.I.R. reveals that there are allegations of slaughtering of 2 cattle carrying in the said vehicle. It is pertinent to note that at this juncture, it is necessary to deviate to the provisions of section 8 of the Maharashtra Animal Preservation Act, 1976. The proviso to subsection 3 thereof speaks that pending trial the animals which are seized under sections 5-A, 5-B, 5-C or 5-D shall be handed over to the nearest Goshala or Panjrapole and the accused shall be liable to pay for their maintenance for the period they remain in custody with any of the said institutions or organizations as per the orders of the court. As such it becomes clear that when the provisions of sections 5-A, 5-B, 5-C or 5-D of the Maharashtra Animals Preservation Act, 1976 are prima facie attracted then the animals needs to be handed over to the Goshala or like organizations. Similarly, it is quiet clear that while deciding the custody of the animals or vehicle the court should keep in mind the mandate of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rule, 2017. The rule 3 thereof speaks about custody of animals pending litigation and it speaks that the magistrate may direct the animal to be housed at an animal welfare organization. Rule 4 thereof speaks about cost of care and keeping of

animal pending litigation. While rule 5 thereof speaks about execution of bond by the accused and the owner of the cattle. It further speaks that the vehicle is required to be held as a security. As such one thing becomes clear that the above rules are very stringent and has to necessarily followed by all concerned. It is to be seen from the above discussion that as in the instant case the stringent provisions of sections 5-A and 9 of the Maharashtra Animal Preservation Act, 1976 read with section 11 (1) of the Cruelty to Animal Prevention Act, 1960 are involved, as such in view of proviso to subsection 3 of section 8 of the Maharashtra Animal Preservation Act, 1976 and rule 3, 4 and 5 of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rule, 2017 the applicant as prima facie proved his ownership over the seized vehicle and in view of above discussed mandatory provisions he is liable to pay for maintenance of the seized cattle for release of the seized vehicle. And the vehicle is required to be held as a security hence, in view of judgment of Hon'ble High Court mentioned above and rule stated the applicant is entitled for the custody of the seized vehicle on supratnama. Consequently, I proceed to pass the following order.

ORDER

1. The application is allowed.
2. Interim custody of vehicle Mahindra Bolero Pick Up FB PS 1.3T bearing registration no. MH 34-BZ-8850 and CH. No. MA1ZN2TTKS6A25147, and Engine No. TTR4M26531 be given to applicant Shri. Kamlesh Bhanudas Chaphale, R/o: Kumbezari, Tq. Jiwati, Dist. Chandrapur on executing indemnity bond of Rs.10,00,000/- (Rs. Ten lakh Only) specifying and undertaking the

conditions as mentioned in this order.

3. The applicant is directed to make payment of maintenance charges in respect of 02 seized cattle at the rate of Rs. 200/- per day animal from the date of seizure of the cattle till date before release of vehicle.
4. The said vehicle be held as a security, as per Provision of Rule 5(4) of the Prevention of Cruelty to Animal (care and Maintenance of case property animals) Rule 2017 till conclusion of trial.
5. P.S.O./I.O. or other concerned officer, Pandharkawada Police Station is hereby directed to obtain color photograph of the seized vehicle to be attested by applicant at the applicant's expenses and to send the same to the court.
6. P.S.O./I.O. or other concerned officer, pandharkawada Police Station is hereby directed to carry out complete panchanama of the seized vehicle for the purpose of trial before handling over possession to the applicant.
7. Applicant is directed not to change, sell, transfer and alienate etc of the seized vehicle or in any other manner till conclusion of trial / investigation if any.
8. Applicant to produce the aforesaid vehicle as and when called by the Court during the trial of the crime.
9. Applicant to furnish bond before P.S.O./I.O.
10. Copy to P.S.O./I.O. Pandharkawada Police Station, for information and necessary action. The investigating officer is directed to tag the

copy of Suprutnama, panchanama and relevant documents along with chargesheet.

11. Copy to P.S.O./I.O. Pandharkawada Police Station, for information and necessary action.

Date :- 27/03/2026

(Smt.A.M. Kasim)
Judicial Magistrate First Class,
Kelapur