



Reg. Cri. Case No. 10/2024.

The State of Maharashtra (P.S. Ghatanji)-V/s- Shaikh Shahrukh
Shaikh Rajjak

CNR No. MHYA-1800-0017-2024.

ORDER BELOW EXHIBIT NO. 04

1. This is an application filed under Section 503 of B.N.S.S., 2023 to handover the custody of seized- **Tractor (Head) of ESCORTS CUBOTA Ltd. Co.**, bearing its registration No. **MH-29-BV-8757**, having its chassis No. **T053637376KM** , Engine No. **E3719612**, kept at Ghatanji Police station, Tq.- Ghatanji, District- Yavatmal, in C.R. No. 841/2023, registered for the offence punishable under Section 379 R/W 34 of I.P.C. and Section 3/181 and 50(2)/ 177 of M.V. Act.
2. It is contention of the applicant that, he is the owner of seized Tactor. Said Tractor is in the custody of the Ghatanji Police Station. He is in need of said Tractor for agricultural purpose as a source of income. Said Tractor is kept at open premises of said police station. There is every possibility of damage to parts of his Tractor. Therefore, prayed to allow the application.
3. Learned A. P. P. has filed say at overleaf of application itself and raised objection on ground that, after filling of the chargesheet said application u/s 503 of the B.N.S.S. 2023 is not tenable. In the matter bailable warrant is issued against accused. Matter is pending for evidence and as per the Judgment property will be disposed off. Therefore, he prayed for rejection of the application.
4. In support of the application, the applicant has filed the documents such as, photocopy of vehicle particulars and verified Copy of Aadhar card of the applicant.

5. Perused the application, documents enclosed, say of the learned A. P. P.

6. Heard learned advocate on behalf of the applicant and learned A. P. P. for the State.

7. I have given thoughtful consideration to the submissions of both sides. I have also minutely gone through the documents enclosed. First of all, as far as document of title is concerned, the applicant has filed verified copy of Vehicle particulars of said Tractor, which shows that the applicant is registered owner. Further, the applicant has affirmed his possession over it, which is undisputed. The seizure of Tractor of the applicant is also not disputed by the Investigating Officer or learned A.P.P.

8. This court has power vide Sec. 497 of the B.N.S.S., 2023, in connection with said offence, to pass order for interim custody of said Tractor.

9. Thus, in view of aforesaid discussion, coupled with the fact that, if the Tractor is either kept idle in the police station or in the court, the possibility of damaging, diminishing the value and utility of seized Tractor cannot be ruled out. In such circumstances in view of above discussion and ratio laid down by the Hon'ble Apex Court reported in case of **Sundarbhai Vs. State of Gujarat, reported in AIR 2003 Supreme Court 638**, it is just and proper to allow the application and handover the custody of seized Tractor to the applicant on imposing suitable conditions. Hence, I pass the following order ;

ORDER

01) The application is allowed.

02) The applicant **Shaikh Shahrukh Shaikh Rajjak**, R/o. Rui, Tq. and Dist.- Yavatmal, is entitled to receive custody of seized **Tractor (Head) of ESCORTS CUBOTA Ltd. Co.**, bearing its registration No. **MH-29-BV-8757**, having its chassis No. **T053637376KM** , Engine No. **E3719612** kept at Ghatanji Police station, Tq.- Ghatanji, District- Yavatmal, in **Crime No. 841/2023**, registered at Ghatanji Police Station, Tq. Ghatanji, Dist.-Yavatmal, on executing Indemnity bond of **Rs. 5,00,000/- (Rupees Five Lakh Only)**.

03) The I.O. / P.S.O. is directed to deliver the possession of seized Tractor to the applicant after due identification and panchnama, subject to following conditions;

(A) The applicant shall execute an indemnity bond, binding himself that he shall produce the said Tractor as and when directed by the Trial, Appellate or Revision Court and shall not use the said muddemal property for any offence and in default, to forfeit an amount of Rs. 5,00,000/- (Rupees Five Lakh Only).

(B) The applicant shall produce before the I.O. / P.S.O. concerned, coloured photographs of the said Tractor with self-attestation for identification purpose in the trial. Concerned officer shall facilitate such photographs.

(C) On execution of said indemnity bond, issue letter to the concerned P. S. O. to facilitate and take the photographs as mentioned above and to handover custody of the seized Tractor to the applicant by preparing necessary memorandum and forward the same to the Court.

(D) The applicant shall not dispose of, sell, mortgage, hypothecate or create any third-party interest on the said Tractor or change the nature of it including colour of the said Tractor in any manner without prior permission of the court.

04) Copy of the Indemnity Bond be annexed with this Charge Sheet bearing R.C.C. No. 10/2024.
(Pronounced in open Court)

Date:- 10/02/2025.

(A. A. Utpat)
Judicial Magistrate F. C.,
(Court No.1), Ghatanji.