



Order below Exh. No. 01 in Other Misc. Criminal Application No. 17/2026
(24/04/2026)

Perused the application and say filed by learned Special A. P. P. and I. O. Heard both sides. This present application is filed by applicant namely **Sharadanand Manoharlal Jayswal** seeking interim custody on supratnama of the vehicle bearing registration no. **MH-29-BH-9304**, Chassis no. **ME4JC65ADJ7055650** & Engine no. **JC65E72087502** seized in Crime no. 14/2026 for offences punishable under Sections 65(a) and 65(e) of the Maharashtra Prohibition Act, 1949. The applicant has prayed for the interim custody of said vehicle on supratnama.

02. Heard the learned Advocate for the applicant and the learned Special Assistant Public Prosecutor for the State at length.

03. The learned Advocate for the applicant vehemently submitted that the applicant is the registered, lawful, and absolute owner of the seized motorcycle. He submitted that the applicant is a 53-year-old agriculturist, and the vehicle is an indispensable utility for his daily agricultural operations and livelihood. It is argued that the vehicle is currently lying unattended in the open premises of the investigating agency, continuously exposed to harsh weather conditions. If it is kept in such a deteriorating state until the conclusion of the trial, it will rapidly turn into useless scrap, causing irreparable financial loss to the applicant. The applicant has expressed his unconditional willingness to execute a substantial bond and abide by any stringent conditions imposed by this Court to secure the interim custody.

04. Per contra, the learned Special A. P. P. strongly resisted the application by filing a written say. The prosecution's primary objection is that the vehicle was actively used as an instrumentality in the commission of a serious socio-economic offence involving the illegal transport of a commercial quantity of illicit liquor. The prosecution apprehends that if the vehicle is released, the applicant might sell it to create third-party rights, alter its mechanical identity, or reuse it for similar bootlegging offences. It is further contended that the vehicle is an important piece of physical evidence required for the trial, and as per the confiscatory provisions of Section 98 of the Maharashtra Prohibition Act, it is liable to be permanently confiscated to the State Government.

05. I have carefully perused the application, the say of the prosecution, the FIR, the seizure panchnama, and the documentary evidence placed on record. The applicant has submitted a copy of the Certificate of Registration and the Motor Insurance Package Policy Schedule. A bare perusal of these documents unequivocally establishes that the applicant, Shardanand Manoharlal Jayswal, is the registered owner of the Honda motorcycle bearing registration number MH-29-BH-9304. The engine number (JC65E72087502) and chassis number (ME4JC65ADJ7055650) mentioned in these documents perfectly match the details of the seized vehicle. Thus, the applicant's legal locus standi to claim interim custody is firmly established.

06. The applicant has relied upon *Sunderbhai Ambalal Desai V/s. State of Gujarat*, (2002) 10 SCC 283. In this case, the Hon'ble Apex Court directed that whatever the situation may be, it is of no use to keep seized vehicles at police stations for a long period. The Court mandated that it is the duty of the Magistrate to pass appropriate orders immediately for the return of such vehicles by taking appropriate bonds, guarantees, and security to ensure their production whenever required

by the Court at any point in time. This Court is duty-bound to follow this fundamental principle that national wealth, in the form of a functional motor vehicle, must not be permitted to perish due to prolonged procedural detention.

07. The applicant has relied upon Ramdas Pachgade V/s. Police Station Criminal Writ Petition No. 5 of 2003. In the case of Ramdas Pachgade V/s. Police Station, the petitioner sought the release of a newly purchased Mahindra Bolero vehicle seized in connection with offences that explicitly included Section 66(1)(b) of the Bombay Prohibition Act. The learned Magistrate in that case had rejected the application on the ground that the applicant was a habitual offender and might misuse the vehicle. However, the Hon'ble Bombay High Court, placing absolute reliance on the Sunderbhai Ambalal Desai judgment, quashed the Magistrate's rejection order. The High Court directed the release of the vehicle upon the furnishing of a bond equivalent to the vehicle's value, along with one surety and an undertaking to return the vehicle when directed. This binding precedent conclusively establishes that even in cases involving the Prohibition Act, the proper judicial recourse is to release the vehicle on stringent conditions rather than allowing it to deteriorate in official custody.

08. The prosecution has heavily relied upon Section 98(2) of the Maharashtra Prohibition Act, which stipulates that conveyances used in carrying contraband articles shall be liable to confiscation by the order of the Court. However, the phrase "liable to confiscation" does not imply an automatic or pre-trial confiscation. The rigorous nature of Section 98 is tempered by the proviso to Section 99 of the same Act, which protects bona fide owners from confiscation if they can satisfy the Court that they exercised due care to prevent the commission of the offence. Since the determination of "due care" requires a full-fledged

evidentiary trial, denying interim custody merely on the anticipation of a possible future confiscation would be unjust and amount to a premature penalization of the applicant.

09. This legal position is further fortified by the judgment of the Hon'ble Gujarat High Court in the case of Bhupendra Singh Jaswant Singh Rajput V/s. State of Gujarat (Special Criminal Application No. 8478 of 2022, decided on August 26, 2022). In an identical factual scenario involving the seizure of a vehicle transporting illicit liquor under a Prohibition Act, the Hon'ble Gujarat High Court similarly applied the Sunderbhai Ambalal Desai doctrine to prevent the vehicle from turning into junk. The Bhupendra Singh judgment provides a precise, balanced blueprint for conditional release, demonstrating that the prosecution's apprehensions regarding the alienation or future misuse of the vehicle can be effectively neutralized by imposing strict, legally binding financial conditions and undertakings, rather than resorting to indefinite physical detention.

10. Evaluating the rival submissions on the touchstone of the aforementioned binding and persuasive legal precedents, I am of the considered opinion that keeping the Honda motorcycle idle in the premises of the investigating agency will serve no fruitful purpose. The legitimate interests of the prosecution can be adequately protected by imposing stringent conditions specifically, the execution of a substantial indemnity bond, an undertaking against alienation, and a strict condition that the vehicle shall stand liable for immediate confiscation if involved in any subsequent offence. In the result, for the detailed reasons recorded above, the application deserves to be allowed in the interest of justice. In view of the observations of the Hon'ble Apex Court as made in the above reported case law, it appears that, it will be just & proper by imposing certain conditions the seized vehicle be released. As

the applicant has shown his ownership over the seized vehicle, he is entitled for the possession of the same. In the result, following order is passed :-

ORDER

01. The Investigating Officer/ Officer In-Charge of the State Excise Department, Pandharkawada is directed to release the seized Honda CB Shine-SP CBS (125 CC) motorcycle, bearing registration number **MH-29-BH-9304** (Engine No. JC65E72087502, Chassis No. ME4JC65ADJ7055650), on interim custody to the applicant/registered owner, Shardanand Manoharlal Jayswal.

02. The release is subject to the applicant executing a Supratnama (Indemnity Bond) in the sum of Rs.70,000/- (Rupees Seventy Thousand Only) along with one solvent surety of the like amount, to the satisfaction of this Court.

03. The applicant shall not alienate, transfer, sell, mortgage, or create any third-party rights over the vehicle during the pendency of the trial without prior permission of this Court

04. He shall not change the color, chassis number, engine number, or alter the physical identity of the vehicle.

05. He shall produce the vehicle before this Court or the investigating agency, at his own cost, as and when directed.

06. In the event the vehicle is found to be involved in any subsequent offence, this order of interim release shall stand automatically cancelled, and the vehicle shall be liable for immediate

seizure and confiscation.

07. The Investigating Officer shall verify the original RC Book, valid Insurance Policy, and identity proofs of the applicant, and retain self-attested photocopies of the same for the record.

08. The applicant shall provide the necessary documents in respect of said vehicle to the investigating officer.

09. The applicant shall provide the necessary documents in respect of said vehicle to the investigating officer.

10. The applicant to preserve & maintain the said vehicle in all respects and shall not hire the same for illegal purposes.

11. The Investigating Officer is hereby directed to prepare a detailed panchnama of the said vehicle and to take at least four photographs from each side of the said vehicle and certified copies of photographs be kept along with the original case papers.

12. The investigating officer is directed to produce indemnity bond, photographs, panchnama and copy of this order along with charge sheet, if filed.

13. The applicant is also directed not to use the said vehicle for the purpose to commit any offence and also not to hand over the same to anyone who will use the same for the commission of any offence.

14. Inform concerned police office accordingly.

Place : Ralegaon.

Date : 24/04/2026.

(U. M. Patil)
Judicial Magistrate First Class,
Ralegaon.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/order :-

a) Name of the Stenographer :- R. R. Hardiya,

b) Court :- Civil Judge Junior Division
and Judicial Magistrate First
Class, Ralegaon.