

**ORDER BELOW EXH. 01 IN CRI. M.A. No. 82 OF 2021**(Passed on 02nd day of June 2021)

CNR No.MHLA060008202021

Shankar V/s. State

01. The applicant **Shankar S/o. Kishan Dange**, Aged about 40 years, r/o Bijewadi Shekapur, Tq. Kandhar Dist. Nanded, has filed this application u/s 457 of Code of Criminal Procedure, (the 'Cr.P.C'. for short) for releasing the muddemal property i.e. a Motorcycle, Model- Honda Shine, class of Vehicle- M-Cycle/Scooter-NT, which is production of Honda Motors Ltd. having Registration Number MH-26-BU-4834, Chassis No. ME4JC852HLD073948 and Engine No. JC85ED0113673 (Hereinafter referred as 'Offending Vehicle'). It is seized in Crime No. 146/2021, is registered with Police Station Ahmedpur for offences punishable u/s 65(a)(e) of Maharashtra Prohibition Act (for short M.P.Act.).

02. Present applicant has claimed to be owner of said offending vehicle. He has prayed for return of said offending vehicle during pendancy of the trial and he has expressed his readiness to furnish indemnity bond/*supratnama* for production thereof. In support, he has filed his affidavit and documents, such as copy of R.C. book and copy of Aadhar Card.

03. I called say of the police Station Officer Ahmedpur. The investigating officer has filed objection to return the said offending vehicle. The Id. A.P.P. has objected to release the said offending vehicle on *supratnama* bond. I heard learned Adv. of both sides.

04. I perused the Certificate of registration of vehicle and other documents. The documents are returned to the applicant by keeping attested photo copy of said documents on record. It is clear from the

perusal of the certificate of the registration of vehicle that the said seized offending vehicle, belongs to the applicant.

05. At this juncture, I would like to refer broad guidelines of Hon'ble Supreme Court issued in case **Sunderbhai Ambalal Desai Vs. State of Gujrat, AIR 2003,SC,638,i.e.** *(1) Owner of the article would not be suffer because of its remaining unused or by its misappropriation; (2) Court or the police would not be required to keep the article in safe custody; (3) If the proper panchnama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the trial, if necessary, evidence could also be recorded describing the nature of the property in detail;*

06. Hence, as per guidelines of Hon'ble Apex Court in the case supra it is manifestly clear that the detailed panchnama and photographs can be used in evidence and there is no necessity of its custody at Court or the police. If under such facts and circumstances and guidelines of Apex Court the said seized offending vehicle is allowed to be kept in the custody of police, then naturally the said vehicle will be junk due to its non use. Further more, no purpose will be served by keeping the said vehicle in the custody of police. Therefore, there is no reason so as to reject the application. At present stage, the applicant is entitled for interim custody of the said seized offending vehicle. In the result, the following order is passed :

O R D E R

- 1 Application is allowed.
- 2 The Police Station Ahmedpur is directed be returned Motorcycle, Motorcycle, class of Vehicle- M-Cycle/Scooter-NT, which is production of Honda Motors Ltd. having Registration Number MH-26-BU-4834, Chassis No. ME4JC852HLDO73948 And Engine No. JC85ED0113673. It is seized in Crime No. 146/2021, is registered

with Police Station Ahmedpur to the applicant **Shankar S/o. Kishan Dange**, R/o. Bijewadi Shekapur Tq. Kandhar Dist. Nanded, on his executing Supratnama bond of Rs. 80,000/-(Rs. Eighty Thousand only) with following conditions :

- i) He shall produce the said seized offending vehicle as and when the court direct;
- ii) He shall not loose destroy and change the appearance, structure and nature of said seized offendeing vehicle in any manner;
- iii)He shall not transfer the said offending vehicle by any mode of transfer to third person;
- iv) Investigating Officer is directed to take the photographs of said seized offending vehicle which shall be attested or counter signed by the applicant and prepare its detail panchanama and compliance be reported to the court alongwith chargesheet or as early as possible.

Date:-Ahmedpur.

Date:-02/06/2021

(Shyam S. Tondchire)

Juducial Magistrate F.C, Ahmedpur.