

ORDER BELOW APPLICATION FOR RETURN OF PROPERTY

1] This is an application filed by applicant for return of property namely Bajaj Auto Pulsar 220 motorcycle bearing No.MH-01-CB-9955 valued at Rs.40,000/- seized in C.R. No.409/2018 registered under section 379 of the Indian Penal Code by Dharavi Police Station.

2] On the application say of Investigating Officer was called. The Investigating Officer has filed say wherein no objection to handover custody of seized property to the applicant on certain terms and conditions is conveyed.

3] In support of application, the applicant has filed on record his own affidavit and submitted that he is owner of the said motorcycle and the said motorcycle is required by him for his personal use. The applicant has annexed verified copy of Aadhaar Card as proof of his identify and address. The Applicant has also filed on record xerox copy of F.I.R. dated 09/10/2018 which shows him to be the original informant on whose report crime is registered.

4] On perusal of verified copies of certificate of registration, certificate of taxation and xerox copies of insurance papers, purchase receipt, sale certificate of the said motorcycle, it is seen that one Shankardayal Swarath Sharma – brother of applicant is registered owner of the said motorcycle. Affidavit of Shankardayal Swarath Sharma is filed on record wherein on oath he has given no objection to handover the said motorcycle to the applicant and annexed verified copy of his Aadhaar Card as proof of his identify and address.

5] Perused application, documents filed on record, say of police and affidavit in support of application. Also perused affidavit of registered owner Shankardayal Swarath Sharma – brother of applicant. Heard advocate for applicant. There is no prima facie evidence come on record to show that the applicant is possessor of the said vehicle. Considering the documents filed on record I come to the conclusion that the vehicle is to be returned to the registered owner not to the applicant. Therefore, the application for return of

property certainly deserves to be allowed as no prejudice is likely to be caused to the investigation agency, if the same is handed over to the original owner. Hence, the application deserves to be allowed on certain terms and conditions. Therefore, I pass the following order :

ORDER

- 1] The application is allowed.
- 2] The seized property namely Bajaj Auto Pulsar 220 motorcycle bearing No.MH-01-CB-9955 valued at Rs.40,000/- seized in C.R. No.409/2018 by Dharavi Police Station, be returned to Mr. Shankardayal Swarath Sharma residing at Room No.681, Rajiv Gandhi Nagar, Dharavi Bandra Link Road, Dharavi, Mumbai-400 017 on executing indemnity bond of Rs.40,000/- (Rupees Forty Thousands Only) with condition that :
- a) The registered owner of the said motorcycle shall not to sell, transfer, alienate, dispose off the said motorcycle or any part of it to any third person before the conclusion of trial.
 - b) He shall not change the nature of the said motorcycle in any mode or manner.
 - c) He shall produce the said motorcycle as and when directed by the Court in the trial or by Investigating Officer in the course of investigation.
 - d) He shall follow the conditions imposed on him scrupulously.
- 3] The Investigating Officer is directed to take the above indemnity bond of registered owner and shall return the muddemal on due verification of registered owner. Investigating Officer further directed to file indemnity bond in the Court. On filing of indemnity bond, it be attached with the charge-sheet.

Order accordingly.

Sd/-

Mumbai
Date : 26/12/2018

(S. R. Sharma)
Metropolitan Magistrate
12th Court, Bandra, Mumbai