

MHST160014722022



ORDER BELOW EXH.1 IN Cri. M.A. NO.241/2022
PASSED ON 29/11/2022.

This is an application for release of Honda Company Activa Moped motorcycle bearing registration No. MH-11-AU-0120, having Chassis No.ME4JC446BA8120516, Engine No.JC44E0530183, filed under section 457 of Code of Criminal Procedure (in short 'Cr.P.C.') by applicant Satish Shivram Bagade.

02. Perused application and affidavit in support of the application, say filed by A.P.P. and other documents filed by applicant on record. Heard Learned advocate for applicant and Learned A.P.P.

03. It is submitted on behalf of applicant that the above said vehicle is owned by him. The said vehicle is seized by the Wai Police station in Crime No.366/2022. It is further submitted on behalf of applicant that the above said vehicle is lying with the Wai Police station. If the said vehicle is kept in idle conditions, the possibility of damage or diminishing the value of it cannot be ruled out. Hence, it is extremely urgent to release the above said vehicle in the name of applicant. Further, the applicant has submitted that he will obey the conditions imposed by this Court.

04. The learned A.P.P. filed her say on the application at Exh. No.7 itself. In her say the learned A.P.P. stated that, the above said muddemal is used in crime. The applicant may be change the nature of said muddemal. If the said muddemal is hand over to the applicant then he will be sold out

said muddemal. Hence, she prayed for rejected this application. The I.O has filed his say at Exh.No.7 and stated that, he has no objection to hand over the above said muddemal to the applicant by imposing some terms and conditions.

05. The applicant has produced original copy of R.C.book of the said vehicle at Exh.No.9/1. On perusal of the same, it appears that the said vehicle is registered in his name and therefore, the vehicle can be released as claimed by the applicant. Applicant has also filed on record verified copy of his Aadhar Card and Pan Card respectively. The applicant has also filed on record his affidavit at Exh.No.5 and stated that, after obtaining possession of the seized vehicle he is immediately cover the vehicle by insurance and ready to filed the copy of said insurance policy to the I.O.

06. Now, it is settled law that the application for releasing of property should be disposed of expeditiously and judicially. By disposing the application expeditiously, the purpose would serve that owner of the article would not suffer because of its remaining unused. Secondly, Court or the Police would not be required to keep the article in safe custody. Thirdly, if the proper panchanama before handing over the possession of seized article is prepared, then the purpose will be served. It is settled principle of law that from whose possession property is seized by the investigation officer and no third person claim the possession of the said property then it would be safe from whose possession the property is recovered he should re possesses the same. Therefore, I am of the view that, the applicant is entitled for temporary possession of the seized vehicle till disposal of the trial. If on certain condition the seized vehicle is released then it will meet the end of justice. Hence, the following order:-

ORDER

1. The application is allowed.

2. The Honda Company Activa Moped motorcycle bearing registration No. MH-11-AU-0120, having Chassis No. ME4JC446BA8120516, Engine No. JC44E0530183, be delivered in favor of applicant i.e. Satish Shivram Bagade on executing Supurtnama of Rs.30,000/- on the following conditions :-

- a. That the above said vehicle should be kept as it is and its nature should not be changed in any way.
- b. That the same should not be sold till the decision of the trial in Crime No.366/2022 registered by Wai Police Station, Tal. Wai Dist. Satara.
- c. That the same shall be produced as and when directed either by Court or by Investigating Officer.
- d. The Investigating Officer shall release the above said vehicle after being photographed, in such a manner to preserve its' identity.
- e. The Investigating Officer is directed to prepare detail panchanama of the above said vehicle at the time of its' delivery.
- f. The photographs along with panchanama shall be placed before the Court.
- g. The applicant is further directed to file insurance policy of the vehicle after obtaining possession to the concern I.O.

Date: 29/11/2022.
Place : Wai.

(S. S. Nichal)
Judicial Magistrate F.C., Wai.