

CNR No. MHWS100015552022

ORDER BELOW EXHIBITE - 01
(Salim Kha Lal Kha Pathan Vs. State of Maharashtra)

1. By filing present application the applicant- Salim Kha Lal Kha Pathan is seeking interim custody of Tata Ace HT BS-III vehicle bearing registration No.MH-38-E-1198, having it's *chassis* No. MAT445056AVN85478 and Engine No.275ID061ZYSH2888 (hereinafter referred to as 'the seized vehicle'), which was seized in Crime No.225/2022 under Section 379 & 411 of IPC by Jaulka Police, Tq. Malegaon, Distt. Washim.

2. It is contention of the applicant that he is the owner and possessor of the seized vehicle. As the applicant being the registered owner and possessor of the seized vehicle, he is in need of the seized vehicle for his daily use. The seized vehicle is lying in idle condition with the police station, Jaulka, from the date of its seizure. At last, he prayed for giving interim custody of the seized vehicle on certain conditions.

3. Say of Investigating officer (I.O.) as well as learned A.P.P. was called. I.O. has filed his say (Exh.5) and learned special APP filed his say overleaf of the application. I.O. and learned APP have taken strong objection to the application on the ground that possibility of using seized vehicle again in the offence of theft can not be ruled out. However, learned APP has taken objection and alternatively submitted that the

seized vehicle be released to the applicant by imposing certain conditions.

4. I have heard Mr.I.M.Sayed, learned advocate for the applicant and Mr.B.L.Ingle, learned special A.P.P. for the State at considerable length. Perused the documents filed by the applicant on record.

5. Perused the application and documents placed on record more particularly verified copy of Certificate of Registration of the seized vehicle and xerox copy of F.I.R. and copy of applicant's Adhar Card. On perusal of Certificate of Registration, it appeared that the applicant is the registered owner and possessor of the seized vehicle. Considering the fact that till date except the applicant no one has claimed interim custody of the seized vehicle, I find substance in the submission of the applicant that; if the seized vehicle is kept as it is with the police station in idle condition, there is possibility of damaging the same by dust, atmosphere etc. However, during argument Mr.Sayed, fairly submitted that the seized vehicle was not insured when it was stolen. Perusal of xerox copy of F.I.R. of the alleged incident, it appears that the offence punishable under Section 379 & 411 of I.P.C. is registered against unknown accused. In view of the direction of the Hon'ble Apex Court in the case of **Jayprakash Vs. National Insurance Company Ltd., reported in (2010) 2 SCC 607**, it is desirable to release the seized vehicle after submission of insurance papers. In such circumstances, as the applicant being registered owner of the seized vehicle, I find no impediment to hand over interim custody in his favour. In the result, I proceed to pass the following order.

-: O R D E R :-

1. Application is allowed.
2. The Police Station Officer of Jaulka Police Station, Tq. Malegaon, Dist- Washim is hereby directed to hand over interim custody of the seized vehicle i.e. Tata Ace HT BS-III vehicle bearing registration No.MH-38-E-1198, having it's *chassis* No. MAT445056AVN85478 and Engine No.275ID061ZYSH2888 to the applicant - Salim Kha Lal Kha Pathan, on his executing indemnity bond of ₹ 5,00,000/- (In words ₹ Five Lakh Only) after receiving insurance papers, on following conditions:-
 - a. The applicant is directed to take insurance of the seized vehicle.
 - b. The applicant shall not change the colour and nature of the seized vehicle as well as he shall not sale, gift, mortgage or transfer the seized vehicle in any manner.
 - c. The applicant is directed to produce the seized vehicle and whenever required to I.O. for the purpose of investigation or by the Court for the purpose of inquiry and trial.
 - d. The applicant shall not use or permit to use the seized vehicle in any offence or for any illegal purpose or in any manner likely to reduce it's value.
3. Before releasing the seized vehicle, I.O. shall prepare detail panchanama and to take four colour photographs from different angle and other particulars of the seized vehicle at the expenses of the applicant and hand over the custody of the seized vehicle to the applicant. I.O. shall attached the photographs and other particulars of the seized vehicle along with charge-sheet and if charge-sheet has already been submitted then I.O. shall produce the photographs and particulars of the seized vehicle to

be attached to the charge-sheet.

4. The applicant shall execute the Indemnity Bond before Investigating Officer.

5. Issue letter to Police Station Officer of Jaulka Police Station, Tq. Malegaon, Distt.Washim, accordingly.

Date : 09/11/2022

(G.S.Badgujar)
Judicial Magistrate First Class,
Malegon.

CERTIFICATE

I affirm that the contents of this P.D.F file Judgment/Order are same word to word, as per the original Judgment/Order.

Name of Stenographer	Shri. C. R. Lande (Grade III)
Name of Court	C.J.J.D. & J.M.F.C., Malegaon, Distt. Washim.
Date of Dictation	09/11/2022
Judgment/Order signed by the PO on	09/11/2022
Judgment /Order uploaded on	10/11/2022