

Krishna Khattal Gaikwad
V/s State of Maharashtra.
CNR.MHSN03-0031982022.

ORDER BELOW EXH.01

The present application has been filed for return of muddemal property i.e. Two wheeler Aactiva 5G bearing no. MH09-FF-6997, engine no.JF50ET7721828, Chasis no.ME4JF50AAKT721691 (Here-in-after referred to as 'seized two wheeler' for sake of brevity).

2. The applicant submitted that, he is the registered owner of the seized two wheeler. The aforesaid two wheeler was seized by the State Excise Sangli in C.R.No.83/2021 from accused. It is further submitted that, the applicant requires seized two wheeler for his day to day use. It is further submitted that, no purpose will be served by keeping the said seized two wheeler at the police station. Hence, the applicant has prayed for return of seized two wheeler. The I.O. and Ld. A.P.P. have filed their say. Learned A.P.P. and I.O. submitted that the offences alleged against accused are serious in nature. It is further submitted that, the investigation is at primary stage and seized two wheeler is required during investigation. It is further submitted that, if the property is returned to the applicant, he might change the nature of muddemal and might the alienate the same. Hence prayed for rejection of the application.

3. Perused the record and proceeding. Admittedly, to the above mentioned two wheeler has been seized in the C.R.No.83/2021 registered with State Excise, Sangli. Now, the applicant has sought for return of above mentioned seized two wheeler as he being the owner of said seized two wheeler. To substantiate the said fact the applicant has filed on record the verified copy of RC Book. Perusal of record of RC Book shows that, the

seized two wheeler Aactiva 5G bearing no. MH09-FF-6997, engine no.JF50ET7721828, Chasis no.ME4JF50AAKT721691 lies in the name of applicant and the same two wheeler has been seized in C.R.No.83/2021. Therefore, it prima facie appears that the applicant is the rightful owner of the said seized two wheeler. Moreover, the accused in his say at Exh.06 has no objection to release the sized two wheeler in favour of present applicant. Therefore, I do not filed any hurdle in giving interim custody of the said seized two wheeler to the applicant who is the rightful owner. So also, there is no reason to disbelieve that applicant being owner of said seized two wheeler requires it for day-to day use. No purpose would be served in keeping the seized muddemal laying idle in the police station.

4. Moreover, there is reasonable apprehension raised by learned A.P.P. and I.O. can be safeguarded by imposing necessary terms and conditions on the applicant. So also, the applicant has shown readiness to abide the terms and conditions laid down by the Court. Under these circumstance and considering the say I don't find any hurdle to hand over the interim custody of the seized two wheeler to the applicant on certain conditions, till disposal of case or until further order. Hence, I pass the following order;

ORDER

- i] The application is allowed.
- ii] The seized two wheeler i.e. Aactiva 5G bearing no.MH09-FF-6997, engine no.JF50ET7721828, Chasis no.ME4JF50AAKT721691 seized in Crime No.83/2021 of State Excise, Sangli be returned to the applicant namely Krishna Khattal Gaikwad on execution indemnity bond of Rs.60,000/- on the following condition,

- (a) He shall not sell, transfer or release ownership of above mentioned seized two wheeler in favour of any person in any manner without prior permission of this Court during pendency of the trial.
 - (b) He shall produce the above mentioned seized two wheeler if required in connection to the case, to the investigation officer or to the Court as and when required or directed by the Court.
 - (c) He shall not make the use of above mentioned seized two wheeler in similar or in any other offence.
 - (d) He shall not change the colour or identification marks of seized two wheeler.
- iii] The PSO of State Excise, Sangli is hereby directed to carry out necessary panchanama in presence of panchas and by taking photographs of the seized two wheeler from different angles and to be attested at the expenses of applicant before handing over above mentioned seized two wheeler to the applicant.
- iv] R & P of present Cri.M.A.no.344/2022 be tagged with concerned chargesheet.

-SD-

(Ashish Mahipati Chavan)

**5th Judicial Magistrate First Class,
Sangli.**

Place : Sangli.

Date : 02/11/2022.

-: C E R T I F I C A T E :-

“I affirms that the contents of this P.D.F. Judgment order are same word for word as per original Judgment”.

Name of Stenographer	: R.K.Shinde, Jr. Clerk
Name of the court	: 5 th J.M.F.C., Sangli.
Date	: 02/11/2022
Order signed by presiding officer on	: 02/11/2022
Order uploaded on	: 02/11/2022