



**IN THE COURT OF 2ND ADDITIONAL SESSIONS JUDGE
AHMEDABAD [RURAL] @ MIRZAPUR, AHMEDABAD.**

Criminal Misc. Application No. 3932 of 2022.

Applicant. : Tejas Natubhai Raval.

Age : 21 Years.

Residence :

Raval Vas, Tower Chawk,
Bavla, Ahmedabad.

Vs.

Opponent. : State of Gujarat.

Application under Sec. 451 of CrPC to release Muddamal.

APPEARANCE :

Ld. Advocate for the applicant. : Mr. J. K. Purani.

Ld. P.P. for the Opponent-State. : Mr. P. M. Trivedi.

:: ORDER ::

1. The present application is preferred by the applicant seeking release of his motorcycle i.e. **Hero Motocorp Ltd. Splendor + bearing Registration No. GJ-38-AF-9184 having Chasis No. MBLHAW126M5H02550, Engine No. HA11EDM5H51375**

which has been seized in connection with **FIR being C.R. No.11192008220229/2022** registered with **Bavla Police Station** for the offences punishable under **Sections 8(C), 21(b) and 29 of the NDPS Act.**

2. Ld. Advocate Mr. J. K. Purani appearing for the applicant has reiterated the contents of the application and submitted that the applicant is the registered owner of the aforesaid muddamal vehicle. It is submitted that the muddamal vehicle is very much required by the applicant for day to day as well as for the purpose of business and is lying in open ground at Bavla Police Station since long time and condition of the vehicle is deteriorating and thus, it would turn into scrap soon and would not be left fit to be used and its value is also reducing every day. It is also submitted that the applicant will ready and willing to abide by all the conditions so imposed by this Hon'ble Court. It is submitted that the applicant will abide by all the conditions imposed by this Court. Hence, it is prayed that the muddamal vehicle of the applicant be released.
3. Ld. P. P. Mr. P. M. Trivedi appearing for the Opponent - State has

drawn attention of this Court towards the affidavit filed by concerned I.O. at Exh.5 and further submitted that the said Muddamal motorcycle was recovered from the possession of accused namely Jayeshbhai @ Bhuro Haribhai Rataidya (Bharwad) and if the muddamal vehicle is released then there is possibility that it may be used for the commission of offence therefore, this application be rejected looking to the nature and gravity of the offence.

4. I have heard the rival submissions of both the sides and perused the record.
5. In the present case, the applicant has produced copy of RC Book of motorcycle Honda Splendor + bearing registration no. GJ-01-AF-9184, perusing the same, it transpires that the applicant is the registered owner of the said vehicle. Hence, there is no dispute regarding ownership of the said vehicle. Further, considering the Affidavit of the concerned I.O. vide Exh.5, the said muddamal motorcycle was recovered from the possession of the accused Jayeshbhai @ Bhuro Haribhai Rataidya (Bharwad) along with other co-accused persons who have also tendered 'N.O.C.' vide List at

Exh.3. Moreover, it appears that unnecessarily keeping the Muddamal in the custody, it would not serve any interest either of the prosecution or the defense or any stakeholder. Further, it is also required to note that if the said vehicle is kept in police custody for more time, it will soon turn into junk. Therefore, considering the settled legal preposition in this regard, this Court is of the considered opinion that the Muddamal motorcycle seized in the present matter, deserves to be released to the present applicant with certain conditions. Hence, following order is passed in the interest of justice :

: ORDER :

1. This Application is hereby **allowed**.
2. The Muddamal Motorcycle- **Hero Motocorp Ltd. Splendor + bearing Registration No. GJ-38-AF-9184 having Chasis No. MBLHAW126M5H02550, Engine No. HA11EDM5H51375 be handed over to the applicant** after proper verification of the original documents of the vehicle regarding ownership of the applicant and **on executing personal bond of one and half amount of the value of the vehicle** to the satisfaction of the I. O. and after taking necessary photographs of the Muddamal and

preparing Panchnama, on the following conditions that ;

- (a) *The applicant will have to produce the Muddamal during the trial whenever required, and the applicant will not use the Muddamal in any illegal activity in any manner.*
 - (b) *The applicant shall not change the physical condition of the Muddamal, except carrying out the necessary repairs as and when required.*
 - (c) *The applicant shall neither transfer nor alienate the Muddamal by any mode of convenience to any third party during the pending trial in connection with which, the said vehicle has been seized.*
 - (d) *The applicant shall give an undertaking on oath before this Court and the concerned police station, that, he would abide by all the conditions and the said Muddamal shall not be used to facilitate any crime/s.*
4. The Investigation Officer while handing over the Muddamal vehicle shall scrupulously follow the guidelines mentioned in the case of **Sunderbhai Ambalal Desai V/s. State of Gujarat - AIR(2003) SC 638 .**
 5. Copy of the Panchnama and Photographs be placed in the record of the present case.
 6. Copy of this Order be sent to the concerned Police Station.

Pronounced and signed on today i.e. 21st December, 2022.

Date : 21/12/2022.

Place: Ahmedabad.

[D. K. Dave]

2nd Addl. District & Sessions Judge,
Ahmedabad (R) at Mirzapur.

UID : GJ00519