

ORDER BELOW EXH.1 IN Cri.M.A.No.541/2022.

(Sudarshan Tambe Vs. Maharashtra State)

CNR MHST140024522022

The applicant Shri. Sudharshan Dadasaheb Tambe filed this application for return of seized muddemal in C.R.No. 312/2022 of Lonand Police Station. Read the application, say filed by Ld.A.P.P. on it. Perused record and documents. Heard argument of learned counsel Shri. B. B. Sarak for the applicant.

2) The applicant has filed present application under section 457 of Cr.P.C. for releasing seized vehicle i.e. Swift VXI four wheeler bearing registration no. MH-14-JR-0045 in connection with Crime No.312/2022 registered with Lonand Police Station. I. O. objected application on ground that, Muddemal will be used for commission similar kinds of offence & Ld. A.P.P. gave no objection to release the said vehicle on proper conditions.

3) Annexed documents i.e. verified copy of Certificate of Registration of said Swift VXI four wheeler, True copy of F.I.R. filed vide list Exh. 3/1 and verified copy of Adhar Card of applicant at Exh.3/4, Verified copy of R. C. T. C. Book which shows that the Shri. Sudharshan Dadasaheb Tambe is registered owner of seized vehicle.

4) Heard learned APP and learned advocate for the applicant. I relied on judgment of Hon'ble Apex court passed in the case of **Sundarbai Ambalal Desai -vs - State of Gujrat reported in AIR 2003 SC 638** :

It is provided that "Whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

5) I have gone through the observations of Hon'ble Supreme court. Considering the nature of property, observations of Hon'ble Supreme Court, perusal of documents on record shows that all documents on record satisfactorily shows that the applicant is rightful claimant of muddemal. Possibility of damage to muddemal in police station is can not be ruled out.

Keeping in view that the applicant is registered owner/rightful claimant of said muddemal, further, as this is an order only to grant interim custody of muddemal, releasing the muddemal property subject to imposition of certain conditions would be just and proper. Therefore, there is no hurdle to return the seized vehicle to the applicant. Hence, the order :-

ORDER

- 1] The application is allowed.
- 2] Muddemal property, i.e. Swift VXI four wheeler bearing registration no. MH-14-JR-0045, be released in favour of applicant Shri. Sudharshan Dadasaheb Tambe on furnishing indemnity bond of Rs. 15,00,000/- (Rs. Fifteen lakh only).
- 3] Applicant and any other person claiming through him shall not alter or alienate muddemal property by way of sale, pledge, gift or any other mode of transfer or alienation till final disposal of case.
- 4] Investigating Officer shall conduct detailed panchanama and shall take colour photographs of muddemal before releasing muddemal property.
- 5] Copy of this order along with all papers of panchnama shall be kept along with charge sheet whenever filed before the Court.

Phaltan.
Dt.20/10/2022.

(Smt. S.B. Dhawale.)
Judicial Magistrate First Class, Phaltan.