

ORDER BELOW EXH.1 IN CRI. M.A. No. 476/2020
(GAJANAN VS. STATE)

The applicant Gajanan S/o Tulshiram Jadhav, R/o Malhivra, Tah. Dist. Hingoli has filed instant application to release the Trailer of Tata Company (hereinafter referred as “vehicle” for the sake of brevity) bearing registration No. MH-06/K-5929 (Chasis No. BV2201328 and Engine No. A62313107) seized in Crime No. 384/2020 registered with Police Station, Hingoli (R) for the offences punishable under Section 279 & 304-A of the Indian Penal Code and Section 134 punishable under Section 187 of the Motor Vehicles Act, on Supratnama. The applicant claims that, he is the registered owner of said vehicle.

2. The I.O and Learned Spl. APP filed their say. The I.O. submitted that applicant may alienate or change the nature of the vehicle. Hence, he prayed to reject the application. The Ld. Spl. A.P.P. contended that, the applicant has not submitted the documents regarding ownership. Hence, he prayed to reject the instant application.

3. Heard, the Learned Counsel Shri R.U. Gote for the applicant and Learned Spl. APP Shri. A.M. Ingle for the State. The copies of documents compared with its original by the Office Superintendent of this court, which are filed on record by the applicant. From the documents filed on record, show that one Bhaskar Ramhari Kadam resident of Panwel is the registered owner as per the documents filed by the applicant below list Exh.05

(document No.03). Moreover, it also reveals from the documents below list Exh.05(document No.05) that one Bharat Mahadeo Kodag resident of Kalamboli, Raigad, Dist. Raigad was the registered owner and the N.O.C. issued in favour of R.T.O. Hingoli as per T.T. form dated 02.11.2015. It is the contention of applicant that though he is not the registered owner as per the RC book of concerned R.T.O. office, but as per the T.T. form, he deemed to be the registered owner though RC book is not issued in his favour by concerned R.T.O. For that purpose the learned counsel for applicant relied on *Satish Dhanmal Sanghavi Vs. State of Maharashtra Criminal Writ Petition No.489 of 2011* in which Hon'ble Bombay High Court Bench at Aurangabad held that :

“if documents show that T.T. form and other documents, which are required for transfer of the registration in favour of purchaser, were handed over by petitioner to respondent No.02”

The Hon'ble High Court rejected the above writ petition on the ground that the petitioner has already signed on T.T. form and hence the person who signed on T.T. form then his ownership would be at end.

It is pertinent to mention here that the applicant claiming interim custody of the alleged vehicle and at the time of deciding the interim custody of vehicle i.e. application under Sec. 457 of Cr.P.C., court cannot go into the merits and cannot decide the ownership of seized vehicle. It is not disputed that the alleged seized vehicle has been seized from the possession of applicant. So far as the say of I.O. is concerned, the I.O. contended that verification of document of R.T.O. is yet to be completed. From the insurance policy it reveals that the alleged vehicle is insured till

04.12.2021. It is pertinent to note that in view of the authority of **Satish Sanghvi (Supra)**, the T.T. form is sufficient to hand over the interim custody of the alleged vehicle.

4. In the case of **Sunderbhai vs State of Gujrat (AIR 2003, S. C. 638)**, in which Hon'ble Apex Court held that,

“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. Gone through submissions. If the seized vehicle is kept lying unattended and unused at Police Station then there is a very possibility that, the said vehicle may get damaged or become junk. The applicant is ready to abide by all terms and conditions if any, imposed by this Court while releasing the vehicle. The grievance of the prosecution can be redressed by imposing sufficient and necessary conditions on the applicant.

6. Considering all these facts and directions of Hon'ble Apex Court in **Sunderbhai's case (Supra)**, it will be just to hand over the interim custody of the seized vehicle to the applicant subject to conditions. There is no point in keeping the vehicle. It will be appropriate to release the vehicle on following terms and

conditions. Hence, I pass the following order as under:-

:: ORDER ::

- 1) This application is allowed.
- 2) The Police Station Officer of Hingoli (R), Police Station is hereby directed to release the vehicle i.e. Trailer of Tata Company bearing registration No. MH-06/K-5929 (Chasis No. BV2201328 and Engine No. A62313107) seized in Crime No. 384/2020 registered with Police Station, Hingoli (R) for the offence punishable under Section 279, & 304-A of the Indian Penal Code and Section 134 punishable under Section 187 of the Motor Vehicle Act, on Supratnama, executing on Indemnity Bond of Rs. 30,00,000/- (Rupees Thirty Lacs only), if not required in any other crime on the following conditions :-
 - I) The applicant shall deposit the cash security of Rs. 20,000/- (Rupees Twenty Thousand) in the court.
 - II) The applicant shall produce the above said vehicle as and when required by this Court.
 - III) The applicant shall not alienate the said vehicle in any manner without prior permission of the Court.
 - IV) The applicant shall not change the nature of the above said vehicle so as to loss it's identity.
 - V) The applicant or any other person on his behalf shall not use the said vehicle committing the same type of offence.
- 3) The applicant shall execute an indemnity bond thereby undertaking the indemnity an amount of Rs. 20,00,000/- (Rupees Twenty Lac only), in case of his failure to produce the said vehicle whenever required.
- 4) The concerned Investigating Officer is hereby directed to prepare detailed panchnama of the said vehicle before releasing it in favour of the applicant on Supratnama and take it's photographs, at the expenses of the applicant counter signed by the any of him.

- 5) The Investigating Officer is directed to send the above Supratnama and indemnity bond executed by the applicant as well as the above mentioned panchnama along with charge sheet.
- 6) Intimate the concerned Police Station accordingly.

**Date:12.01.2021.
Hingoli.**

**(V.V. Joshi)
Judicial Magistrate First Class,
Court No.2, Hingoli, Dist. Hingoli.**

ENDORSEMENT

Application heard on	:	12.01.2021
Order dictated on	:	12.01.2021
Transcription Ready on	:	12.01.2021
Order checked and signed off	:	12.01.2021

CERTIFICATE

I affirm that the contents of this PDF file order are same word to word, as per the original order.

Typed By :- **Presiding Officer.**