

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 712 OF 2015

Pramod s/o. Babasaheb Karale**Petitioner.**

Versus

The State of Maharashtra**Respondent.**

Mr. N.V. Gaware, Advocate for petitioner.

Mrs. R.K. Ladda, APP for State.

CORAM : T.V. NALAWADE, J.

DATED : 15th July, 2015.

ORDER :

1. The petition is filed to challenge the order made in Criminal Misc. Application No. 182/2015 which was pending in the Court of Judicial Magistrate, First Class, Rahuri and also the decision of Criminal Revision No. 92/2015 which was pending in the Court of Additional Sessions Judge, Ahmednagar. Both the sides are heard.

2. The present criminal application is filed under section 457 of Cr.P.C. for interim custody of the car which is seized by police in C.R. No. 80/2015. There is allegation that when the incident of theft of sand was detected, the concern had made an attempt on life of police officer as he was taking action.

Another vehicle dumper was used for that purpose. As this car was found in the vicinity and accused were using this vehicle for carrying stolen sand, car was seized.

3. It is the case of petitioner that he has purchased the car from its registered owner Bhagwan Pralhad Fulsoundar, resident of Burudgaon, Dist. Ahmednagar under notarized document. It is his contention that the name of original owner is still there in R.T.O. record, but he is owner of the vehicle. It is his case that if the vehicle is kept in idle condition, it will get damaged and its value will come down. He has prayed for giving interim custody.

4. In the Court of J.M.F.C., the petitioner has produced the so called sale receipt in respect of the car. This document shows that the previous owner Fulsoundar has sold the vehicle car bearing No. MH-16/AV-0110, the number of chassis and engine are given. No other person has come forward to claim the custody. The J.M.F.C. has refused to give the custody only due to the circumstance like the vehicle is not registered in the name of petitioner in R.T.O. record. In view of the provisions regarding sale of goods and as there is document of aforesaid nature on record, this Court holds that interim custody of the

vehicle needs to be given to the applicant.

5. In the result, petition is allowed. The orders made by the learned J.M.F.C. and decision of criminal revision are quashed and set aside. Interim custody is given to the petitioner and as the application filed in the Court of J.M.F.C. bearing Criminal Misc. Application No. 182/2015 is allowed, it is up to the learned J.M.F.C. to take Supurtnama before issuing order of release and impose necessary conditions.

[T.V. NALAWADE, J.]

ssc/