

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 475 OF 2015

Huzefa M. Mithaiwala ... Applicant.

V/s.

The State of Maharashtra & Anr. ... Respondents.

Mr. Altaf Khan i/by Anjali Awasthi, Advocate for the Applicant.
Mr. Ajay Patil, APP for the State.

**CORAM : M.L.TAHALIYANI,J.
DATE : 17th JULY, 2015**

P.C. :

1 Admit. Heard finally.

2 Heard the learned Advocate appearing for the applicant and the learned additional public prosecutor for respondent no.-State. Respondent No.2 is not present. Respondent No. 2 is not in fact a contesting party.

3 The applicant is aggrieved by the order passed by the learned Special Judge, refusing to release the Motor Tempo bearing No. MH-04-G-9232. The said motor vehicle was seized by the J.J. Marg Police Station in connection with the offence punishable under the Protection of Children From Sexual Offences Act, 2012. Respondent No.2 was the accused in the said case. The vehicle in question was allegedly used in connection with the offence. As already stated, said vehicle

has been already seized by the police and the applicant claims to be the owner of the vehicle.

4 I have gone through the original order passed by the Special Judge. It appears from the order that the registered owner of the vehicle is one Nicholas Micheal Furtado. He was not made party to the application made before the learned Special Judge. Though there are some documents to show that said Nicholas had sold the vehicle to the applicant, said Nicholas will have to be heard as registration certificate is still in his name. Unless he is a party to the proceedings, the application for return of the property under section 451 of the Cr.P.C. cannot be decided.

5 The criminal application is dismissed.

6 The trial court to hear the application filed by the applicant afresh after joining the said Nicholas as a party respondent to the proceedings. Notice be issued to said Nicholas on the address which shall be supplied by the applicant. The application of the applicant shall be decided after hearing the applicant, State and the registered owner. It shall be decided within a period of four weeks from the date of the receipt of an authenticated copy of this order.

7 Present application stands disposed of accordingly.

(JUDGE)

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