

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1186 OF 2016

Ajinath S/o Nanasaheb Matsagar,
Age : 28 years, Occu. : Agriculture,
R/o : Jarul, Tal : Vaijapur,
Dist. : Aurangabad

.. Petitioner
(Orig. applicant)

Vs.

The State of Maharashtra
Through Police Station Vaijapur,
Tal. Vaijapur, Dist. Aurangabad

.. Respondent

Mr. N.P. Ghanwat, Advocate for the petitioner
Mr. K.D. Munde, APP for the respondent/State

CORAM : N.W. SAMBRE, J.

DATE : 19/09/2016

ORAL ORDER :

Heard.

2. The vehicle of the present petitioner bearing registration no. MH-20 CT-4586 came to be seized in crime no.212 of 2016 for offences punishable under section 354-A, 323, 504, 506 of the Indian Penal Code, under section 3(11) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under section 12 of the Protection of Children from Sexual Offences Act, 2012.

3. In the said case, the brother of the petitioner is accused, who is already informed to be released on regular bail.

4. The petitioner moved an application under the provisions of section 457 of the Code of Criminal Procedure, seeking custody of the vehicle, which came to be rejected by the learned Additional Sessions Judge, Vaijapur vide order dated August 25, 2016.

5. While trying to make out case for release of the vehicle, learned counsel for the petitioner submits that to overcome the anxiety that the petitioner may create third party charge or alienate the same during the pendency of the criminal proceedings, the petitioner is ready and willing to furnish an undertaking before the learned Additional Sessions Judge, in the trial in question, that he shall not transfer the vehicle during the pendency of the trial.

. According to him, the petitioner has purchased the vehicle on finance and same was required to be used for the commercial purpose as the income thereof will be required to be used for satisfying the debt raised for

purchase of the said vehicle. He would then urge that the vehicle cannot be kept idle in police station as the same may deteriorate.

6. Learned A.P.P. submits that the learned Additional Sessions Judge has given adequate reasons for rejecting the prayer for release of the vehicle. He would then submit that there is every likelihood that the vehicle may be used for commission of similar offence or the petitioner may dispose off the same during the pendency of the sessions trial.

7. Having bestowed my thoughts to the submissions made, it is required to be noted that the petitioner has already submitted that he is willing to furnish an undertaking that he shall not transfer the vehicle during the pendency of the trial and in express terms to that effect, is ready and willing to furnish such undertaking before the learned Sessions Judge within one week. The said submissions of the petitioner needs to be accepted.

8. Apart from above, petitioner has already undertaken that he shall not use the vehicle without

proper documentation such as valid insurance, registration, tax, as is leviable under law.

9. In view thereof, the writ petition needs to be allowed. The order dated August 25, 2016 passed below Exhibit 1 in Criminal Misc. Application No.12 of 2016 by the learned Additional Sessions Judge, Vaijapur is hereby quashed and set aside.

10. It is ordered that the vehicle of the petitioner bearing registration no. MH-20 CT-4586 be released on supartnama, on the following terms:-

I) The petitioner shall furnish an undertaking within one week that the petitioner shall not transfer the vehicle during the pendency of the criminal trial arising out of crime no. 212 of 2016 pending on the file of learned Additional Sessions Judge, Vaijapur.

II) He shall also maintain the papers of vehicle in proper format and shall abide by such terms and conditions, as will be imposed in addition to above, by the learned Additional Sessions Judge.

III) Furnishing of the undertaking will be condition precedent for release of the vehicle.

11. Criminal Writ Petition stands allowed accordingly.

[N.W. SAMBRE]
JUDGE

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