

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

CRIMINAL WRIT PETITION NO.3524 OF 2016

Kapil Prabhakar Patil	... Petitioner
Versus	
The State of Maharashtra	... Respondent

Mr.Kedar P. Lad, Advocate for the Petitioner.
Mr. S.R.Agarkar, APP for the State/the Respondent.

CORAM : RAVINDRA V.GHUGE, J.
DATE : 16 MARCH, 2017.

P.C. :

1. The Petitioner is aggrieved by the order dated 6th August, 2016, by which his application seeking the interim custody of his vehicle has been rejected.

2. I have heard the submissions of the learned counsel for the Petitioner and the learned APP on behalf of the State.

3. A vehicle bearing registration No. MH-14-P-5039 identified as a TATA Spacio vehicle is owned by the Petitioner. A crime No. 224 of 2015 was registered at the City Police Station, Sangli regarding offences punishable under sections 408, 409, 420, 120-B, 201, 381 and 34 of the IPC and Sections 8,

13(1)(c)(d) r/w 13(2) of the Prevention of the Corruption Act, 1988 and Sections 4,7 and 8 of the Maharashtra Prevention of Malpractices of University Board and other specified Examinations Act, 1982.

4. The vehicle at issue is said to have been used for transporting the 27 accused persons, who were attempting to appear for the examinations by proxy. Accused No. 27-Ramesh Sitaram Farakate is still absconding. He is said to be a person who was arranging for carrying the other accused to the examination hall.

5. The Petitioner claims that his vehicle was not seized by the police, but it was he himself who had handed it over to the police. The learned APP contradicts the said statement and submits that the record would indicate that the vehicle was seized by the police. There is no dispute that the vehicle was seized in June, 2016 and since then is lying with the City Police Station at Sangli in a disfunctional state.

6. The Petitioner was served with the notice dated 12th July, 2016 calling upon him to apply to the Court for taking the custody of the said vehicle. The Petitioner moved an application for interim custody. By the impugned order, the Trial Court has rejected the application primarily for two reasons. Firstly, that accused No. 27 is still absconding and if

the custody of the vehicle is handed over to the Petitioner, it would create a hurdle in the investigation. Secondly, that the said vehicle having been used for committing the crime, would be required for investigation.

7. The Petitioner makes a statement on instructions that after the investigation has been completed, the charge-sheet has been filed.

8. There can be no dispute that the said vehicle, if is lying idle in the Police Station, would be rendered dysfunctional by non-use and is likely to deteriorate. It also can not be ignored that the investigation is completed. The seized vehicle is not to be put into service for apprehending the absconding accused No. 27. If certain conditions are imposed upon the Petitioner and is directed to file a specific affidavit/undertaking before the Trial Court, the interim custody of the said vehicle could be handed over to him. Considering the comparative hardship and the irreparable loss that is likely to be caused to the Petitioner, I deem it proper to entertain this Petition.

9. This Petition is therefore, partly allowed. The impugned order dated 6th August, 2016 is quashed and set aside. The Criminal Miscellaneous Application No. 510 of 2016 filed by the Petitioner is partly allowed and the custody of the vehicle identified as TATA Spacio bearing registration No. MH-14-P-

5039, having white colour, shall be handed over to the Petitioner by the learned Trial Court on the following conditions:

(a) The Petitioner shall file an affidavit-undertaking declaring that he would not dispose of the said vehicle without obtaining leave from the Court and he would not in any manner cause the disposal of the said vehicle.

(b) While submitting the said affidavit, he shall submit the original R.C. book to the Trial Court and shall maintain the certified true copy of the same or shall obtain a duplicate copy by following the due procedure of law.

(c) The Petitioner shall produce the said vehicle for inspection of the Station House Officer of the City Police Station, Sangli on every 1st, 3rd and 5th Monday of each month.

(d) He shall also produce the said vehicle as and when required for the purpose of the trial, under the orders of the Trial Court or the SHO of the said Police Station.

(RAVINDRA V.GHUGE, J.)