

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

CRIMINAL APPLICATION NO.771 OF 2017

Rahul Dattatray Pawar

.. Applicant

Vs.

The State of Maharashtra & Ors.

.. Respondents

.....
Mr.Raviraj R. Paramane, Advocate for the Applicant.
Mrs.N.S. Jain, APP for the Respondent - State.
.....

CORAM : PRAKASH D. NAIK, J.

DATED : JULY 4, 2018.

P.C. :

Applicant had preferred an application before the Sessions Court, Thane, for return of vehicle i.e. Swift Desire VDI bearing Registration No. MHO4-DW-3574. The said application was rejected on 30th December, 2015. The said vehicle is allegedly involved in C.R.No.I-196 of 2016, registered with Nerul Police Station, for offences punishable under Sections 384, 385, 386, 387, 201 read with 34 of Indian Penal Code. Subsequently, the provisions under Section 3(1)(ii), 3(2), 3(4) of MCOC Act were applied. The charge - sheet was filed and the proceedings are pending before the concerned Court.

2 According to the applicant, he is owner of the seized vehicle. The vehicle is seized by the police on 21st July, 2015. It is allegedly being used by the co-accused while committing crime.

3 It is submitted that the applicant is the owner of the car, which is fortified by information forwarded from RTO office which has been annexed to the application. The ownership is not disputed by the prosecution. Learned Session Judge, however, rejected the application on the ground that although the applicant, is the owner of the car and although the accused had given no objection, he is not entitled to receive the car, as he may not produce the same as and when required, since he had handed over the car to the accused for disposal.

4 It appears from the record that the police had filed a report opposing the said application wherein it is stated that enquiry was made with applicant and his statement was recorded, wherein he has stated that he had given the car to accused for use. However, the ownership was not disputed.

5 The vehicle is lying at the police station since last three years. Ownership of the applicant is not disputed. No

purpose would be served by keeping the vehicle in custody of the police. The applicant is not involved in the said crime.

6 Learned APP opposed the application. It is submitted that the vehicle was used in commission of serious crime. The applicant may not produce the vehicle during the trial, before the Court.

7 On perusal of the documents, it is apparent that the vehicle is under seizure since 2015. Admittedly, the applicant is not involved in the said crime. The ownership is not disputed. In the circumstances, the application can be allowed on certain terms and conditions.

8 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Application is allowed;
- (ii) The vehicle bearing Registration No.MH04-DW-3574, seized in C.R.No.I-196 of 2015 by the Nerul Police Station, be returned to the

applicant on executing Supratnama/Bond in the sum of Rs.1,00,000/-;

- (iii) The applicant shall produce the said vehicle as and when required before the trial Court and shall not sell the said vehicle to any other person, till the conclusion of the trial;
- (iv) Criminal Application stands disposed of.

(PRAKASH D. NAIK, J.)