

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.804 OF 2019

SOYAL SHAIKHLAL SHAIKH ... APPLICANT.

VERSUS

THE STATE OF MAHARASHTRA ... RESPONDENTS.

Mr.Rohit Shevate i/b Mr.Jaydeep Mane, Advocate for the applicant.

Mr.S.V.Gavand, Additional Public Prosecutor for the State.

CORAM : A. M. BADAR, J.

DATE : 21ST FEBRUARY 2020.

P.C.:

1. Heard learned counsel for the applicant at sufficient length of time. He argued that the applicant is the owner of Mahindra & Mahindra make Balero Pick Up vehicle bearing registration No.MH-13 CU 0201 and he has produced the registration particulars and insurance particulars of that

vehicle before the learned Magistrate. Therefore, he was entitled for possession of that vehicle.

2. I have perused the impugned order. It is gathered from the impugned order that the accused persons came to be convicted in Criminal Case No.5012 of 2017 by the learned Judicial Magistrate, First Class on 21/02/2018. They had preferred an Appeal bearing number 19 of 2018 challenging their conviction and resultant sentence. In that appeal, the application at Exhibit 28 came to be moved by the present applicant and that application came to be rejected by the impugned order. Applicant had claimed custody of the vehicle by preferring an application at Exhibit 28.

3. Learned Additional Sessions Judge, Solapur, was pleased to reject the application at Exhibit 28 moved in Appeal No.19 of 2018 with observation that, applicant herein had not applied for stay of the impugned Judgment and Order passed by the learned trial Magistrate which also deals

disposal of property on conclusion of trial. Learned appellate court observed that, as per provision of Section 99 of the Maharashtra Prohibition Act, the learned Magistrate had directed confiscation of the subject vehicle and applicant had not prayed for stay to the impugned Judgment and Order. With these observations, application at Exhibit 28 came to be rejected.

4. No infirmity can be found in the impugned order at Exhibit 28 when the applicant herein had not even prayed for stay to the impugned Judgment and Order so far as it relates to disposal of property. The application, therefore, is rejected.

(A. M. BADAR, J.)

