

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

964 CRIMINAL APPLICATION NO.1502 OF 2021
IN APEAL/515/2021 WITH APEAL/439/2019 WITH APPLN/1501/2021 IN
APEAL/515/2021 WITH APEAL/515/2021

AKASH BALAJI BARSE
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicant : Mr. Jaiswal Rupesh A.
APP for Respondent-State: Mr. R.D. Sanap
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**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 1st DECEMBER, 2021**

PER COURT:-

1. Heard both sides.
2. The applicant is original accused No.3 in Sessions Case No. 48 of 2017. The learned 6th Additional Sessions Judge, Nanded by judgment and order of conviction dated 15.3.2019 convicted the accused, three in numbers, for the offences punishable under Section 302 r.w. 34 of I.P.C. and sentenced them to suffer life imprisonment each and to pay a fine of Rs.5,000/- each, in default of payment of fine amount, to suffer one month rigorous imprisonment and also convicted them for the offences punishable under section 323 r.w. 34 of I.P.C. and sentenced them to suffer R.I. for one year and to pay fine of Rs.1000/- i/d to suffer R.I. to one month.

3. Being aggrieved by the same, the original accused No.2 Sunil and present applicant-original accused No.3 have preferred criminal appeals before this court. The applicant-original accused No. 3 has preferred criminal appeal No. 515 of 2021.

4. The learned 6th Additional Sessions Judge, Nanded, in clause 5 of the operative part of the judgment and order of conviction, has directed that the Muddemal property i.e. one motor cycle of Pulsar Bajaj Company shall be given to its registered owner and if registered owner fails to take possession, then the same shall be disposed of by auction and sale proceeds be credited to be Government.

5. Learned counsel for the applicant submits that the applicant original accused No.3 Akash Balaji Barse claims to be the registered owner of the said motor cycle bearing registration No. MH-26-Z-3027. Learned counsel has pointed out registration particulars mentioned in the copy of R.C. book wherein, name of the applicant Akash Balaji Barse is shown as owner.

6. Learned A.P.P., on instructions, submits that the said motor cycle seized in connection with the crime, which is subject matter of Sessions Case No. 48 of 2017, is lying in the concerned police station.

7. In view of the order passed by the 6th Additional Sessions Judge, Nanded and particularly clause 5 of operative part of the order and since the motor cycle is directed to be given to its registered owner, the applicant, being the registered owner, is entitled for the custody of the said motor cycle. The applicant shall show original documents to the investigating officer pertaining to his ownership.

8. With the aforesaid conditions, the criminal application is allowed in terms of prayer clause "B" and disposed of.

(SANDIPKUMAR. C. MORE, J.)

(V. K. JADHAV, J.)

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