

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL WRIT PETITION NO. 264 OF 2021

Mahesh @ Gotya Devidas Tayade,
aged about 22 yrs, Occ. Student,
R/o. Nalanda Nagar, Washim,
Tq. And Dist. Washim.

.... **Petitioner**

- Versus -

State of Maharashtra,
through its Police Station Officer,
Police Station Washim,
Tq. And Dist. Washim.

.... **Respondent**

Mr. Rahul S. Kurekar, Advocate for the petitioner
Mrs. Kalyani R. Deshpande, A.P.P for the State/respondent

**CORAM : ROHIT B. DEO, J.
DATED : 14th June, 2021.**

ORAL JUDGMENT

Heard.

2. Rule. Rule made returnable forthwith.
3. With consent, the petition is finally heard at the stage of admission.
4. The petitioner is facing prosecution in Crime 421/2018

registered with Washim Police Station under Sections 364(A), 384, 386, 387, 324, 327, 294, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code and under Sections 3 and 4 read with Section 25 of the Indian Arms Act and under Section 135 of the Maharashtra Police Act and Sections 3(1)(ii) and 3(4) and 4 of the Maharashtra Control of Organized Crime Act.

5. The investigating agency seized Maruti Suzuki Zen vehicle bearing registration number MH-04-CJ-2417, which according to the petitioner is purchased by him from Mr. Prabhakar Patil.

6. It appears that the seized car is in the custody of police and according to the petitioner, the same is lying in the open courtyard of the police station and is suffering wear tear and damage on a day to day basis.

7. The petitioner preferred an application under Section 451 of the Code of Criminal Procedure, 1973 (Code) seeking release of the car which came to be dismissed by the learned Special Judge who took note of the submission of the prosecution that the car was used to commit the offence and there is possibility that the car may be

again used to commit similar offence.

8. In my considered view, there is no propriety in allowing the vehicle to suffer irreversible damage. It is not in dispute that the petitioner is the owner of the vehicle. The petitioner has undertaken not to alienate the vehicle and to produce the same as and when necessary. It is not clear from the order impugned as to the manner and circumstances in which the car was used to allegedly commit offence. Be that as it may, even if it is assumed that the petitioner travelled in the car to reach a particular destination which may be the scene of the crime or used the car as mode of conveyance while indulging in inappropriate activities, there is no reason why car should be detained at the police station. The submission that the car may be used to commit a similar offence is not founded on any tangible much less credible material, at least, at this stage.

9. In this view of the matter, the order impugned is quashed and the application below Exhibit 65 in Special (MCOCA) Case 67/2019 is allowed subject to the petitioner submitting appropriate undertaking and/or bond to the satisfaction of the learned trial Court.

10. Rule is made absolute in the aforestated terms.

JUDGE

wasnik