

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.535 OF 2022

**YOGESH DATTATRAYA SUPEKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

....
Mr. Z.H. Farooqui, Advocate for the Petitioner
Mr. .D. Sanap, APP for Respondent Nos. 1 and 2
....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 26 SEPTEMBER 2022

PER COURT:-

. Heard finally with the consent of both the sides at admission stage.

2. The question involved in this petition is about release of vehicle bearing registration No. MH-17-AG-4374.

3. Heard Mr. Z.H. Farooqui, learned counsel for the petitioner and Mr. R.D. Sanap, learned APP for respondent Nos.1 and 2/State.

4. Perused the impugned order passed by the learned Chief Judicial Magistrate, Nandurbar dated 16.12.2021, which is confirmed by the Additional Sessions Judge,

Nandurbar in criminal revision application No.5 of 2022 vide order dated 24.02.2022.

5. Mr. Farooqui, learned counsel for the petitioner submitted that the present petitioner is registered owner of the vehicle. The report of the R.T.O. also revealed such fact. The report of the R.T.O. is against the petitioner only to the extent of change in engine number. He submitted that the petitioner may face necessary prosecution for such violation of provisions of the Motor Vehicles Act and Rules, for that vehicle ;may not be detained in view of citation in case of *Sunderbhai Ambala Desai Vs. State of Gujrath* reported in *2003 AIR (SC) 638*. The petitioner is ready to execute necessary indemnity bond and ready to abide by the conditions imposed by the Court.

6. Per contra, Mr. Sanap, learned APP for respondent No.1/State strongly opposed to release the vehicle. He submitted that the vehicle in question, which was seized by the police has two different number plates. Front side number plate of the vehicle and the number plate on the rear side are different. He further submitted that the engine number mentioned in the RC book is different than number

appearing on the engine fixed with the vehicle. As such, the police machinery constrained to seize the vehicle. He submitted that it may not be just and proper to release the vehicle in the above factual aspect about the tampering of the engine number. He also pointed out the report submitted by the concerned R.T.O. in this regard.

7. I have considered the the submissions of both the sides. Perused the F.I.R. and other papers. It is revealed that vehicle bearing registration No.MH-17-AG-4374 came to be seized in connection with crime No.233 of 2020 for the offences punishable under Sections 465, 467, 42 of the Indian Penal Code. The present petitioner is found to be registered owner of the vehicle as per the R.T.O. report. The only factor against the petitioner is about chage of engine number. It appears from the R.T.O. report that engine number differs than shown in the RC book and the engine which is fixed with the vehicle. Be that as it may, at the most, the petitioner may face criminal prosecution for such violation of provisions of the Motor Vehicles Act and Rules. Section 182 of the Motor Vehicles Act would take care of such violation of the Motor Vehicles Act and Rules. The petitioner is a registered owner of the vehicle. The investigation of the

case is over, and the police have filed the charge-sheet against the petitioner. As such, there is no propriety to keep the vehicle in the police station campus. The vehicle is detained in the police station since last 2 ½ years. In view of guidelines laid down by the Hon'ble Supreme Court in case *Sunderbhai Ambala Desai Vs. State of Gujraht* (supra), the vehicle needs to be released. The petitioner can be directed to execute indemnity bond. He can be even directed to abide by the conditions, which would take care of apprehension of the prosecution agency. Hence, the following is passed.

ORDER

- (i) The criminal writ petition stands allowed in terms of prayer clause (B).
- (iii) The petitioner shall execute indemnity bond in the sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) before the learned Chief Judicial Magistrate, Nandurbar.
- (iv) After furnishing such indemnity bond by the petitioner,/registered owner of the vehicle, the learned Magistrate may issue the release order of the vehicle bearing

registration No. MH-17-AG-4374 by putting reasonable conditions.

(v) The petitioner to comply the above said directions by appearing before the learned Chief Judicial Magistrate, Nandurbar. The learned Chief Judicial Magistrate, after compliance of above said directions, issue release order of the vehicle at the earliest.

(vi) The criminal writ petition is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P Rane