

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1135 OF 2022

Anis Salim Jamadar

Petitioner

versus

The State of Maharashtra

Respondent

Mr.Chaitanya Mulawkar i/by Sandeep S. Salunkhe, Advocate for petitioner.

Mr.Arfa Sait, APP, for State.

Mr.Anil Kashinath Gawde, Police Constable, Shahupuri Police Station, Kolhapur, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 20th July 2022

PC :

1. The petitioner is aggrieved by order dated 17th February 2022 passed by learned Additional Sessions Judge, Kolhapur in Criminal Miscellaneous Application No.26 of 2022 rejecting prayer for return of vehicle. During the course of investigation in C.R.No.302 of 2020 registered with Shahupuri Police Station, the subject vehicle was seized by police. The vehicle stands in the name of petitioner. The petitioner preferred an application for return of the vehicle before learned Sessions Judge, which has been rejected.

2. Learned advocate for petitioner submits that the vehicle is in the name of applicant. The vehicle is of 2005 model. No purpose would be served by keeping the vehicle in custody of police. The applicant is not the accused in case. He is one of the victim/investor. Hence custody of the vehicle may be given to him. The applicant is willing to execute surety bond/supurdnama if custody of vehicle is

given to him. He is willing to furnish cash security in the sum of Rs.50,000/-. Value of the vehicle is at the most Rs.4 to 5 lakh.

3. Learned APP submitted that vehicle was seized during investigation. The prosecution relates to the offence under the provisions of MPID Act. The transaction of transfer of said vehicle to the petitioner was effected after registration of FIR. Apparently it is benami transaction. The vehicle was purchased by the accused from the proceeds of crime. The investigating agency would initiated proceedings of attachment of the proceeds seized during investigation.

4. Undisputedly the vehicle has been seized on 17th January 2022. The vehicle is Innova car of 2005 model. It is not in dispute that applicant is not an accused in the proceedings. He was apparently investor/victim. Vehicle is transferred in the name of petitioner. Vehicle is lying in the vicinity of police station since January-2022. Trial may not be over within short time. By the time the trial gets concluded, the vehicle would be damaged. Since the vehicle stands in the name of petitioner, it can be returned to him on the usual terms and conditions.

ORDER

- (i) Writ Petition is allowed and disposed off;
- (ii) Order dated 17th February 2022 passed by Additional Sessions Judge below Exhibit-1 in Criminal Miscellaneous Application No.26 of 2022 is quashed and set aside;
- (iii) The vehicle viz Innova, bearing registration No.MH-11-Y-4722 seized by Shahupuri Police Station in C.R.No.302 of 2022 be

returned to the petitioner on his executing Supurdnama Bond and on furnishing cash security of Rs.50,000/-;

(iv) The petitioner shall not alienate and/or transfer and/or destroy the Innova vehicle and as and when required, it will be produced before concerned Court.

(PRAKASH D. NAIK, J.)

MST