

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.577 OF 2022

Dhanraj Nitin Shah

Applicant

versus

The State of Maharashtra

Respondent

Ms.Varsha Gangawane i/by Sunny Udasi, Advocate for applicant.
Mr.M.G.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 22nd September 2022

PC :

1. This is an application for return of car which has been seized in CR No.I-354 of 2020 registered with Padgha Police Station for offences under Section 8(c), 22(c) and 29 of Narcotic Drugs and Psychotropic Substances Act (`NDPS Act').

2. The case of prosecution is that accused in CR No.I-354 of 2020 was found in possession of vehicle Innova car bearing No.MH-02-AL-846 on 28th January 2021 and upon search of the car resulted in recovery of narcotic drugs. The accused was arrested and he is in custody. The car was seized on 28th January 2021. Since then the car is lying in the custody of police at the concerned police station.

3. The applicant preferred application for return of property before the Court of Special Judge, NDPS, Thane. The application was rejected by order dated 29th November 2021.

4. Learned advocate for applicant submitted that car is lying in the custody of police from 28th January 2021. No purpose would be

served by keeping car within the precincts of concerned police station. By the time trial gets over, the car would be damaged. The applicant is not involved in CR No.I-354 of 2020. The applicant is in custody in another case. The car was handed over to the accused in aforesaid case by the nephew of applicant while applicant was in jail in connection with another case. The applicant is the registered owner of car. He has all the requisite documents to support his ownership in respect to the said car.

5. Learned APP submitted that huge contraband was recovered from the car. The accused in the said case was found in possession of car and huge contraband was recovered from the car. The applicant was in jail in another case and provisions of MCOC are invoked against him. The car is required in CR No.I-354 of 2020 which has been seized in connection with said offence.

6. It is pertinent to note that applicant is not involved in any manner with CR No.I-354 of 2020. Investigation in the said CR has been completed and charge sheet is filed against concerned accused. The car at the most would be required during trial in the event Court directs the same to be produced during the course of proceedings. It is not in dispute that applicant is the registered owner of said car. The car is lying at the police station from 28th January 2020. Thus, for a period of about 1½ years, the car is in custody of police. It is not clear as to when the trial would proceed and complete. No purpose would be served in keeping the car in custody of police. The damage is already caused to the car and by the time trial would get over, further damage would be caused to the car. Hence, on certain conditions, car can be released.

ORDER

- (i) Criminal Application is allowed and disposed off;
- (ii) The order dated 29th November 2021 passed by Special Judge (NDPS), Thane in Special Case No.235 of 2021 below Exhibit-14 is quashed and set aside;
- (iii) The vehicle Innova Car bearing registration No.MH-02-AL-846 seized in CR No.I-354 of 2020 registered with Padgha Police Station, be returned to applicant on executing requisite bond/ Supurdnama and on condition that as and when required by the Special Court (NDPS), Thane in connection with CR No.I-354 of 2020 in Special Case No.235 of 2021, the applicant shall produce the car;
- (iv) The applicant shall not alienate or sell the car to any any other person.

(PRAKASH D. NAIK, J.)

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