

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.1342 OF 2021

Rahul Deelip Wable

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Sagar V. Kasar a/w Ms. Chaitali Bhogle, Mr. Dnyaneshwar Jaibhave and Mr. Sachin Patil, for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

PSI – A. M. Patare, Niphad Police Station, Nashik, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 9th MARCH 2022

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks quashing and setting aside of the order dated 10th November 2021, passed by the learned Additional Sessions Judge, Niphad, below Exhibit – 39 in Sessions Case No.26 of 2021 and as such seeks return of his vehicle i.e. Ertiga Car bearing registration No. MH17-AJ-6713.

3. Perused the papers. The applicant was arrested in connection with C.R. No.678 of 2020, registered with the Niphad Police Station, Nashik, for the alleged offences punishable under Section 302 r/w 34 of the Indian Penal Code. Vide order dated 11th October 2021, this Court granted bail to the applicant in connection with the said case. It appears that during the course of investigation, the applicant's car i.e. Ertiga Car bearing registration No. MH17-AJ-6713. was seized in connection with the said case. During the course of investigation, blood and vomit stains were found by the police and samples were sent to the forensic laboratory. The applicant filed an application (Exhibit – 39) dated 22nd October 2021 in the Court of the learned Sessions Judge and sought interim custody of his white colour Ertiga Car bearing registration No. MH17-AJ-6713, under Section 451 of the Code of Criminal Procedure. The learned Sessions Judge vide order dated 10th November 2021, rejected the said application seeking interim custody of the vehicle, for the reasons set out in para 5 of the said order.

4. Learned Counsel for the applicant states that the applicant does not deny the fact that during investigation, blood stains and vomit stains

were taken from his car. The said vehicle i.e. Ertiga Car bearing registration No. MH17-AJ-6713 was seized by the police in December 2020. The trial is likely to take some time and if the vehicle is kept idle, it would further deteriorate. It is not in dispute that the applicant is the absolute owner of the said vehicle i.e. Ertiga Car bearing registration No. MH17-AJ-6713.

5. Considering the aforesaid, the application is allowed on the following terms and conditions:-

ORDER

- (i) The impugned order dated 10th November 2021, passed by the learned Additional Sessions Judge, Niphad, below Exhibit – 39 in Sessions Case No.26 of 2021, is quashed and set aside;
- (ii) The applicant is granted interim custody of white colour Ertiga Car bearing registration No. MH17-AJ-6713, on executing Supratnama/personal bond, to the satisfaction of the trial Court;
- (iii) The applicant shall file an undertaking in the trial Court that he will not sell the aforesaid vehicle or will not create any third party interests and shall produce the aforesaid vehicle, as and when, directed by the trial Court, before the said vehicle is released.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.