

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

CRIMINAL APPLICATION (APL) NO. 435/2022

Mayur s/o Baldeo Shahare,
Aged 19 years, Occupation – Labourer,
R/o Tukum Narayan, (Kelwad),
Taluka – Arjuni Morgaon, District – Gondia. **APPLICANT**

VERSUS

The State of Maharashtra,
through Police Station Officer,
Wani, Taluka – Wani, District - Yavatmal. **NON-APPLICANT**

Mr. S.G. Karmarkar and Mr. N.B. Mohature, Counsel for the applicant,
Mr. H.D. Dubey, Addl.PP. for the non-applicant/State.

CORAM : VINAY JOSHI, J.
DATED : 13th JUNE, 2022

ORAL JUDGMENT :

Heard.

2. **Admit.**

3. Heard finally by consent of both sides.

4. The applicant, who is accused in Special Case No.46/2021 for the offences punishable under Sections 363, 366-A, 376(2)(j)(n) of the

Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act (POCSO Act), challenges the order of rejection of return of seized muddemal property namely motorcycle bearing registration No. MH-49/K-1242. It appears that since the applicant-accused to facilitate the act of kidnapping has used his motorcycle, it came to be seized. The trial Court rejected the application solely on the ground that the applicant does not possess valid driving licence. Neither the ownership of vehicle is disputed nor it is in dispute that vehicle is seized from the possession of the applicant. Inasmuch as the applicant has produced documents of ownership of vehicle. The reason assigned by the trial Court is totally unsustainable. Certainly, the trial will take its own time for disposal of the case and during meantime, if vehicle is kept lying at police station, it will ruin.

5. Having regard to the said facts, impugned order dated 15-1-2022 passed by the learned Additional Sessions Judge, Kelapur is hereby quashed. The seized vehicle namely motorcycle bearing registration No.MH-49/K-1242 be returned to the applicant on executing bond to the tune of Rs.1,00,000/- (Rupees One Lac). The applicant shall provide photographs of motorcycle from both sides to the Investigating Officer. The applicant shall not alter the outer appearance of motorcycle nor transfer the same to anyone, till conclusion of the trial.

The applicant shall not ride motorcycle unless he obtains valid driving licence.

6. The application stands disposed of in above terms.

JUDGE

adgokar