

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

CRIMINAL WRIT PETITION NO.1060 OF 2022

A.U. SMALL FINANCE BANK LTD., LATUR THROUGH ITS
AUTHORIZED SIGNATORY RAHUL RAMESHRAO PUND

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. Shete Umesh N.

APP for Respondent/State : Mr. K.S. Patil

Advocate for Respondent No.2 : Mr. A.R. Borulkar (Appointed)

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CORAM : S.G. MEHARE, J.

DATED : JANUARY 17, 2023

PER COURT:-

1. Heard learned counsel for the petitioner, learned APP for the State and learned counsel Mr. Borulkar appointed for respondent no.2 through legal aid.

2. A small question that arises for consideration is whether the vehicle involved in this case can be released in the name of company and permitted to sell the said vehicle. It is not in dispute that the vehicle in question was purchased by the absconding accused/respondent no.2 on loan from the petitioner finance company and it was seized in one crime. The present petitioner moved an application before the learned Judicial Magistrate for custody of the vehicle involved in the case under Section 451 of the Criminal Procedure Code with a leave to sell the vehicle. Learned

counsel for the absconding respondent no.2 has strongly opposed the application.

3. In similarly situated case, this Court in the case of Tata Motors Finance Ltd Vs. The State of Maharashtra and Anr, reported in 2018 ALL MR (Cri.) 636, permitted the financier to auction the vehicle involved in the said crime and sale proceeds were allowed to be kept by the petitioner and certain other conditions were imposed.

4. It is clear from the ratio laid down in the above case that financier is entitled to claim the custody of the vehicle under Section 451 of Criminal Procedure Code, if such vehicle is involved and seized in the crime and also entitled to sell the vehicle. Therefore, the petition deserves to be allowed. Hence, the following order :

ORDER

- I) The petition is allowed.
- II) The vehicle Toyota Innova Crysta bearing Registration No. MH-24-AS-7262, Engine No. 2GDAA176570 and Chassis No. MDJGB8EM802039399-0318, be delivered in the custody of the petitioner on supratnama of Rs.4 lacs and leave granted to auction the said vehicle and sale proceeds be kept by the present petitioner.
- III) The finance company before auction shall made an endeavour to serve the final notice of auction upon the borrower by Registered Post A.D. on his last known address.

(3)

IV) The concerned investigation officer to secure the photographs of the vehicle for the purpose of identification before delivering its custody to the present petitioner.

(S.G. MEHARE, J.)

Mujaheed//