

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

905 CRIMINAL WRIT PETITION NO.1321 OF 2022

**MANIK BAPURAO KADAM
VERSUS
THE STATE OF MAHARASHTRA**

Mr.Ashwini Lomte h/f. Mr. S.J. Salunke, Advocate for the petitioner.
Mr.S.R. Yadav-Lonikar, APP for the respondent/State.

**CORAM : KISHORE C. SANT, J.
DATED : 20.01.2023**

PC :-

01. Heard learned Advocate for the petitioner for some time. By way of this petition, the petitioner is challenging an order dated 01.12.2021, whereby the application of the petitioner filed under section 457 of the Cr.Pc. came to be rejected.

02. The present petitioner is an owner of one Scorpio vehicle bearing registration No.MH-23-AD-3776, which was seized by the police, in connection with offence bearing Crime No.364 of 2021. While rejecting the application, the learned JMFC observed that this very vehicle was seized in connection with another crime bearing registration No.277 of 2021. The vehicle is seized, while carrying Gutakha, which is banned in the State of

Maharashtra. The vehicle was earlier released on condition that this vehicle will not be used for similar type of offence and therefore the application has been rejected.

03. The petitioner challenged this order by filing criminal revision No.5 of 2022, whereby criminal revision also came to be rejected by the learned Additional Sessions Judge, Parbhani by its judgment and order dated 09.03.2022. The learned Sessions Judge also observed the fact that this vehicle was already seized and released on condition in Crime No.277 of 2021.

04. The learned Advocate for the petitioner relies on the judgment passed by the Hon'ble Apex Court reported in **2003 SC 638** in the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat**, wherein the Hon'ble Apex Court held that it is in nobody's interest to keep seized vehicle at the police station for long period and the Magistrate are expected to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicle. Further Hon'ble Apex Court directed that such application should be decided promptly and to see that the articles

are not kept for a long time in the police station, in any case for more than fifteen days to one month.

. Learned Advocate further produced on record order passed by this Court in Criminal Writ Petition No.1064 of 2022 dated 14.09.2022, wherein this Court by relying upon judgment in the case of **Sunderbhai Ambalal Desai (Supra)** has directed to release the vehicle. In that case also in the submission of learned Advocate, the vehicle was seized. It was found to have been used for the similar type of crime on the second time, however, in that case the ownership of vehicle was changed in between and the petition was filed by the subsequent owner. It was the application by second owner.

05. Learned APP opposed the petition vehemently. He submitted that in this case same owner has used vehicle for second time in similar type of offence. While releasing the vehicle in earlier crime No.277 of 2021, there was undertaking given by the owner – petitioner that the vehicle will not be used for similar type of offence and submits that the petitioner is not entitled to any relief.

06. The learned APP relies upon order passed by this Court in

Criminal Writ Petition No.830 of 2022 dated 03.01.2023, wherein this Court had rejected the petition in similar circumstances, considering that same person used the vehicle in breach of conditions. It is thus seen that the petitioner in the said case is habitual offender and he is using the said vehicle for similar type of activities by committing breach of the conditions imposed upon him. Certainly such person is not entitled to seek any relief from the Court.

07. This Court also finds that the Courts below have rightly rejected the application and no illegality is committed while passing the order. This Court finds that no ground is made out to call interference at the hands of this Court while exercising jurisdiction under Article 227 of the Constitution of India. The petition is therefore dismissed.

08. The learned Trial Court is requested to expedite the trial and dispose off the same as early as possible and preferably within a period of six months from today.

[KISHORE C. SANT, J.]