

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

52 CRIMINAL WRIT PETITION NO.1638 OF 2022

RANJIT GEMA RATHOD
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Petitioner : Mr. Temkar Rajendra K.
APP for Respondent : Mr. Y G Gujrathi

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CORAM : KISHORE C. SANT, J.
Dated: February 06, 2023

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PER COURT :-

1. Heard learned advocate for the petitioner and the learned APP for the Respondent State.
2. This petition is filed for getting custody of the vehicle of the petitioner.
3. The learned Special Judge (MPID Act), Aurangabad has rejected the application vide order dated 27.9.2022 below Exhibit 3 in Special Case No.81 of 2022.
4. It is the case of the petitioner that his vehicle is seized in connection with the FIR bearing No.26 dated 21.1.2022 lodged with Bidkin Police Station. Though he is not an accused, still his vehicle bearing no.MH-20/EL-3030 is seized only because

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there is some resemblance of his vehicle number with one of the schemes that was run by main accused Santosh Rathod. In fact, he has no concern with the offence registered against said Santosh Rathod. He points out that the time of the offence is shown to be from 22.1.2021 till 22.1.2022 whereas the vehicle is purchased in the year 2019. Thus, there is no question of his purchasing the vehicle from the money from the said scheme. Learned advocate further submits that only because of the fact that for some period, he had some association with the accused Santosh Rathod against whom FIR is lodged his vehicle is seized. Learned counsel submits that, he had purchased the said vehicle by selling cotton crop and also by raising loan from the Bank. Now he has, in fact, repaid the loan also. He, therefore, prays for release of the vehicle. Learned Trial Court, however, rejected the application on the ground that prima facie, it is found that the amount from which vehicle was purchased was from the funds of the depositors who had deposited the amount with Santosh Rathod.

5. Learned APP opposes the application saying that there is some communication with the amount used for the purchase of

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car and the amount deposited by the depositors with Santosh Rathod.

6. On the last date, this court had passed an order directing the petitioner to remain present before the I.O. for recording his statement. Pursuant to the order dated 11.1.2023, now the Investigating Officer has even recorded his statement. From the report, it appears that the petitioner could not satisfy by giving account of the amount from which he purchased the vehicle.

7. Considering the above, this court finds that keeping the vehicle without use would not be in the interest of any party. Interest of the justice would require to release the vehicle in favour of the petitioner and at the same time, it is necessary to protect the interest of the prosecution. Hence, following order.

O R D E R

- i. Writ Petition is hereby allowed.
- ii. The vehicle Maruti Swift ZDI+ bearing Registration No.MH-20/EL-3030 be released on executing a Supurtnama by the petitioner before the concerned police station.

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- iii. The petitioner shall also furnish solvent surety to the tune of Rs.5,00,000/- (Rs. Five Lakh) with the concerned police station.
- iv. The petitioner shall also file an undertaking that he will produce the vehicle as and when required by the trial court or the Investigating officer.
- v. The petitioner shall not make any change in the nature, colour of the vehicle or create any third party interest in the vehicle till the trial is over.
- vi. Said exercise be done within a period of two weeks from today.
- vii. With this, writ petition is disposed off.

(KISHORE C. SANT, J.)

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