

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

CRIMINAL WRIT PETITION NO. 1527 OF 2021

Naziya Mohammad Ziyaulla

.. Petitioner

Versus

The State of Maharashtra
Through Jinsi Police Station, Aurangabad

.. Respondent

Mr. Chaitnay C. Deshpande, Advocate for the Petitioner.
Mr. P. M. Kulkarni, APP for Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 13th FEBRUARY, 2023.

P C. :-

. Heard learned advocate for the petitioner.

2. This is a petition challenging an order passed by the learned Additional Sessions Judge, Aurangabad on an application below Exhibit 97 in Special M.P.I.D. Case No. 161/2020. The petitioner who is the original accused had filed an application. The allegation is that the accused persons have lured the investors at large by floating a scheme. In the investigation the vehicle - Mitsubishi Pajero Sport (SUV-4 Wheeler) bearing registration No. KA-25-MB-1679 with Chasis No. MA702KG4WFGOO5447 and Engine No. 4D56UCFV3257 has been seized by Jinsi Police Station. The crime is registered for the offences punishable under Sections 406, 420 and 420-B of the Indian Penal

Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (M.P.I.D. Act). The vehicle in question is seized by the police. It is submitted that, now in fact, amount is recovered and the same is paid to the depositors. Further it is submitted that the vehicle is getting rusted as it is lying in the police station and no purpose would be served even if the vehicle remains in custody. It is in the interest of the parties that the vehicle be released. The petitioner is ready to abide by the conditions if imposed by this Court.

3. Learned A.P.P. opposes the prayer vehemently. He submits that, twice the application of the petitioner has been rejected by the Trial Court. This vehicle, in fact, is evidence in the hands of the police. Though it is submitted that the amount is recovered, however, still some amount is yet to be recovered. He submits that the investigation is still in progress. Some of the accused are still absconding and it will not be safe to release the vehicle.

4. Considering the fact that, vehicle is unnecessarily lying in the police station without any use and that it is in nobody's interest if the vehicle is not released, it will unnecessarily be kept in rust. This Court finds that the vehicle can be released subject to certain conditions. Hence, the following order.

ORDER

(i) The vehicle No. KA-25-MB-1679 of company Mitsubishi Pajero Sport (SUV-4 Wheeler) be released on executing supurtnama in the sum of Rs. 15,00,000/- (Rs. Fifteen Lakh only).

(ii) The petitioner shall not create any third party interest in the vehicle and shall not dispose off the same.

(iii) The petitioner shall not change the nature of the vehicle and shall file an undertaking that he would produce the vehicle as and when ordered by the police or by the Court.

(iv) In case, there is any breach of the conditions, the vehicle will be re-seized by the police.

5. With this, the criminal writ petition is disposed off.

(KISHORE C. SANT, J.)

P.S.B.