IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI

ON THE 2nd OF FEBRUARY, 2024

CRIMINAL REVISION No. 326 of 2024

BETWEEN:-

ANKESH S/O RAJKAMAL, AGED 27 YEARS, OCCUPATION: LABOR, NEAR SHAMSHAN GHAT, GUJARKHEDA, MHOW (MADHYA PRADESH)

.....PETITIONER

(SHRI ARPIT SINGH, COUNSEL FOR THE PETITIONER).

AND

THE STATE OF MADHYA PRADESH, STATION HOUSE OFFICER, THROUGH P.S. KISHANGANJ (MADHYA PRADESH)

.....RESPONDENTS

(SHRI BHUWAN DESHMUKH, GOVERNMENT ADVOCATE FOR THE STATE).

This revision coming on for admission this day, the court passed the following:

ORDER

Heard on the question of admission.

The present revision under Section 397 read with Section 401 of the Cr.P.C. has been filed by the applicant against the order dated 19.10.2023 passed by the Second Additional Sessions Judge, Dr. Ambedkar Nagar, District Indore in S.T.No. 62/2022 whereby the application filed by the applicant under Sections 451 and 457 of Cr.P.C. for Supurdginama of the motorcycle has been rejected.

2. As per prosecution case, on 24.03.2022, FIR No. 252/2022 was

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registered against the applicant and other co-accused persons for offence punishable under Sections 302, 307, 323, 294, 147, 148 and 149 of the Indian Penal Code. During investigation, the Police seized the offending vehicle Motorcycle HF Deluxe bearing Registration No. MP09X1266 and a pistol from the co-accused Ashish Borasi. The applicant filed an application seeking release of the motorcycle, but the same has been rejected on the ground that the seized articles are part of evidence and shall be required during trial.

3. Learned counsel for the applicant contended that he is the owner of the vehicle. The vehicle is liable to be confiscated only after the conviction, but during the pendency of the trial, the vehicle is lying in the campus of the police station without any protection. The Apex Court in the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat reported in (2002) AIR SCW 5301** has held that the articles seized in any criminal case are not to be kept for long time at Police Station without any proper protection.

4. On the other hand learned counsel for the State has opposed the prayer of the applicant and submitted that the applicant's vehicle was found to be involved in a serious crime registered under Sections 302, 307, 323, 294, 147, 148 and 149 of the IPC and if the vehicle in question is handed over, the same would be used for commission of another offence. Accused/applicant is not entitled to get vehicle on Supurdginama.

5. Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, I am of the view that it is a fit case to release the motorcycle.

6. Accordingly, the present application is allowed and the impugned order dated 19.10.2023 passed by the Second Additional Sessions Judge, Dr. Ambedkar Nagar, District Indore (MP) is hereby set aside. It is directed that the

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vehicle of the applicant **Motorcycle HF Deluxe** bearing registration No. **MP 09 X 1266** be released on following terms & conditions :-

i). That, applicant Ankesh s/o Rajkamal shall furnish Supurdginama in the sum of Rs.50,000/-(Rupees Fifty Thousand) with one surety in the like amount to the satisfaction of the concerned CJM/trial Court, for releasing the seized said vehicle in connection with Crime No.252/2022 registered at Police Station Kishanganj for offence punishable under Sections 302, 307, 323, 294, 147, 148 and 149 of the IPC.

ii). That, the applicant shall produce necessary documents like original registration certificate, sale-letter etc. before the trial Court.

iii). That, the applicant shall get the vehicle photographed showing the registration number as well as chassis number of the said vehicle. Such photographs shall be taken in the presence of the responsible officer, who will be deputed by the trial Court and to be kept in the file of the case.

iv). That, the photographs of the applicant as well as surety must have been placed in the personal bond and bond of surety. Further, the photograph of person identifying him before the Court must also have been placed in the personal bond. The applicant surety and person identifying shall carry their full residential proof.

v). The applicant shall undertake not to transfer the ownership of the vehicle and shall not lease it to anyone and not make or allow any changes in it to be made so as to make unidentifiable.

vi). The applicant will not allow the vehicle to be used in any anti-social activities.

vii). In the event of confiscation order of the Court competent, the applicant shall keep the vehicle present positively for confiscation.

7. It is further directed that before releasing the vehicle in interim custody of applicant, the S.H.O. of concerning police station shall get photographs size 18 x 12 inches of the concerned vehicle taken from all sides and also the photographs showing engine and chassis numbers. Such photographs shall be filed in the trial Court to be kept along with the record.

8. With the aforesaid directions, this revision stands disposed off.

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Certified copy as per rules

(S. A. DHARMADHIKARI)
JUDGE

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