



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

CRIMINAL REVISION APPLICATION NO.102 OF 2025

Vishal Parasram Gaikwad

...APPLICANT

Age-26 years, Occu-Tours and Travel
R/o. Mangrul No. 1, Tq. Majalgaon,
Dist. Beed

VERSUS

The State of Maharashtra
Through Officer In-Charge,
Police Station Dharur,
Dist. Beed

...RESPONDENT

Mr. S. J. Salunke, Advocate for the applicant
R. K. Ingole, APP for the respondents/State

CORAM : ABHAY J. MANTRI, J.

DATE : 19th SEPTEMBER, 2025

JUDGMENT :

1. The applicant, the owner of the vehicle, Mahindra Scorpio M2DI9 BS-III bearing No. MH-23/Y-0714, being aggrieved by the order dated 04-10-2024 passed below Exh. 15 in Special (NDPS) Case No.20/2024 by the learned Additional Sessions Judge, Kaij, has preferred this revision.

2. The learned advocate for the applicant vehemently argued that the learned Judge has erred in rejecting the application for release of vehicle on the ground that as per sub-section 3 of

section 60 of the NDPS Act the owner of the Mahindra Scorpio failed to state that he was not aware of the fact that the vehicle was used for carrying Narcotics Drugs or vehicle was so used without his knowledge or connivance. He further canvassed that the Hon'ble Apex Court in *Bishwajit Dey VS the State of Assam*, 2025 0 AIR(SC) 549 has held that there is no any specific bar /restriction under the provision of the NDPS Act for the return of the seized vehicle used for transporting narcotic drug or psychotropic substance in the interim pending disposal of the criminal case. Therefore, he has pointed out paragraphs 19 to 22 of the said judgment. He further submitted that as per law laid down in *Sunderbhai Ambala Desai Vs State of Gujrat, (2002) 10 SCC 283 as well as Sainaba Vs State of Kerala and Another, 2022 SCC Online SC 1784* the applicant is entitled to get the custody of the vehicle and therefore, he propounded that the order passed by the learned Judge is contrary to the position of the law laid down therein, as such same is liable to be quashed and set aside.

3. On the other hand, the learned APP submitted that in the application, the applicant did not state that he was unaware that said vehicle was used without his knowledge and connivance in carrying any narcotic drug. Therefore, the learned Judge has rightly rejected the application, and he is not entitled to any relief.

4. Having heard the learned advocate for the respective

parties and having gone through the section 60 (3) and law laid down in the above cited judgments, prima facie it appears that as per section 60(3) the owner has to demonstrate that he was not having any knowledge or without his knowledge or connivance that the accused has carried any Narcotic drug in the vehicle. The said question can be determined after adducing evidence and not at the interim stage. Similarly, as per the mandate in ***Biswajit Dev*** (supra), *“there is no specific bar/ restrictions under the provision of NDPS Act for release of any seized vehicle used for transporting narcotic drug or psychotropic substance in the interim pending disposal of the criminal case”*.

5. *Moreover*, it is not disputed that the applicant is the owner of the vehicle. In addition, the applicant has produced an RC book on record to demonstrate that he is the owner of the Mahindra Scorpio. The question of whether the vehicle was used without the knowledge or connivance of the owner can be determined after assessing the evidence. Therefore, in view of the settled position of the law in the above-cited cases, it would not be proper to reject the application.

6. Thus, prima facie it is apparent that the applicant has made out a prima facie case for the release of the vehicle. Therefore, I do not find substance in the objection raised by the learned APP in

that regard.

7. On perusal of the impugned order, it reveals that the learned Judge has erred in observing that in view of section 60(3), the applicant is not entitled to get the custody of the vehicle. On the contrary, in view of the law laid down in the above-cited cases, I am of the opinion that the applicant, being the owner of the vehicle, is entitled to interim custody of the Mahindra Scorpio. Hence, the following order:

ORDER

a] Consequently, the criminal revision application stands allowed with direction to the trial court to release the vehicle in question on the interim custody on supurtnama (as per it's valuation) after preparing a video and still photographs of the Mahindra Scorpio and after obtaining all information/documents necessary for identification of the vehicle, which shall be authenticated by the Investigating Officer, owner of the Mahindra Scorpio and accused by signing the same. Further, the applicant shall not sell or part with the ownership of the vehicle till conclusion of the trial and shall furnish an undertaking to the trial court that he shall surrender the vehicle within one week of being so

directed and/or pay the value of the Mahindra Scorpio (determined according to Income Tax law on the date of its release), if so ultimately directed by the court.

b] Accordingly, the impugned order dated 04-10-2024 stands quashed and set aside. Inform the learned Trial Court.

c] The Criminal Revision Application stands disposed of.

[ABHAY J. MANTRI, J.]

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