



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

CRIMINAL WRIT PETITION NO. 548 OF 2024

Ganibhai Hussain Sayyed .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Joyeb I. Shaikh, Advocate for the Petitioner.
Shri K. K. Naik, A.P.P. for the Respondent No. 1.

CORAM : SHAILESH P. BRAHME, J.
DATE : 18TH MARCH, 2025.

ORDER :

. Heard both sides.

2. Applicant is aggrieved by order dated 08.02.2023 passed below Exhibit 04 by the learned Additional Sessions Judge, Shrirampur in Sessions Case No. 33 of 2022 rejecting his application soliciting custody of the vehicle involved in the offence.

3. Learned counsel for the petitioner submits that he is owner of Bajaj Platina make two wheeler bearing registration No. MH-17/CP-5988. In support of that the documentary evidence was filed along with application Exhibit 04 seeking custody of the vehicle U/Sec. 451 of the Code of Criminal Procedure. It is

submitted that as investigation is completed and charge sheet is filed, there is no point and purpose in retaining the vehicle. The petitioner is in need of the vehicle. At the relevant time it was given to one of the accused person, who happened to be relative of the petitioner. The applicant is ready to abide by any condition imposed for releasing the vehicle. It is submitted that findings recorded by the learned Sessions Judge in para No. 5 are unsustainable.

4. Per contra, learned Assistant Public Prosecutor vehemently opposes the submissions of the petitioner. He would submit that the vehicle in question is seen in CCTV footage and it has been used for carrying the dead body of the deceased. It is submitted that if the vehicle in question is tampered after its release, the prejudice is likely to be caused to the prosecution.

5. I have considered rival submissions of the parties. The vehicle is seized by panchanama dated 25.11.2022. Since then it is with the police station. The petitioner is the only claimant of the vehicle. Along with his application the documents like extract of RC book, smart card and photo copy of insurance cover note were produced to support the claim of ownership. These documents have not been disputed by the respondents. The petitioner is owner of the vehicle in question, which was being used for committing offence. The petitioner is not involved in the offence. It was seized at the instance of one of the accused persons, who happens to be relative of the petitioner. Once

investigation is over, there is no point and purpose in retaining the vehicle in the police station. The ends of the justice would be met by releasing the vehicle by imposing certain conditions on the petitioner.

6. The findings recorded by the learned Judge in rejecting the application in para Nos. 5 and 6 are unsustainable. No purpose can be achieved by retaining the vehicle in the police station. I, therefore, pass following order.

O R D E R

A. The impugned common order dated 08.02.2023 passed by the learned Additional Sessions Judge, Shrirampur, Dist. Ahmednagar below Exhibit 04 and Exhibit 09 to the extent of the petitioner's application Exhibit 04 is quashed and set aside.

B. The application below Exhibit 04 in Sessions Case No. 33 of 2022 stands allowed on following conditions :

- (i) Concern vehicle shall be handed over to the petitioner on executing supurtnama by executing bond of Rs. 5,000/- (Rs. Five thousands only).
- (ii) The applicant shall furnish undertaking that he shall produce the vehicle as and when required for the Trial Court and if so ordered by the learned Sessions Judge conducting the trial in Sessions Case

No. 33 of 2022.

- (iii) He shall not alienate, dispose of or change the nature of the vehicle in question in any manner.

C. The criminal writ petition is disposed of.

[SHAILESH P. BRAHME J.]

bsb/March 25