



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

932 CRIMINAL WRIT PETITION NO. 1964 OF 2024

**MAYUR ASHOK SALAVE
VERSUS
THE STATE OF MAHARASHTRA**

....

Mr. Mudassir H. Shaikh h/for Mr. Joyeb I. Shaikh, Advocate for
the Petitioner

Mr. K. K. Naik, APP for the Respondent-State

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 28.01.2025

PER COURT :-

1. Heard the learned counsel for the Petitioner and the
learned APP at length.

2. By the present Petition under Article 226 of the
Constitution of India, the Petitioner takes exception to the order
dated 12.02.2024 passed by the learned Additional Sessions
Judge, Sangamner, Dist. Ahmednagar, below Exh.4 in Sessions
Case No.78 of 2023, thereby prayer for return of Motorcycle
bearing registration No. MH-17-CG-3764 is declined.

3. On face of record it appears that, on 08.08.2023, a

Crime No. 254 of 2023 has been registered against the accused No.1 Mahesh Janardhan Jadhav and the present Petitioner for the offenses punishable under Sections 302 and 201 of IPC for committing murder of Kalyani Mahesh Jadhav, the wife of Accused No.1 by strangulation. The present Petitioner was standing on Kolhar-Ghoti Road to keep watch. So also, the motorcycle bearing Registration No. MH-17-CG-3764 was used while taking the victim by the accused at the spot of incident.

4. The Petitioner is the registered owner of motorcycle MH-17-CG-3764. The Petitioner already released on bail during the pendency of trial in Crime No.254 of 2023 registered with Rajur Police Station. The present Petitioner / original accused No.1 filed Exh. 4 an Application under Section 451 and 457 of Code of Criminal Procedure and prayed for release of property on Supurtnama during the pendency of trial. The prosecution resisted said application by giving say.

5. On 12.02.2024, the learned Additional Sessions Judge passed the impugned order and held that, it would not be proper to release the vehicle prior to conclusion of trial because the said motorcycle was used while committing the crime and it is an

important piece of evidence.

6. Section 451 and 457 of Code of Criminal Procedure reads as under;

Section 451- *Order for custody and disposal of property pending trial in certain cases.*

“ When any property is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation. For the purposes of this section, "property" includes-

(a) property of any kind or document which is produced before the Court or which is in its custody.

(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.”

Section 457- *“Procedure by police upon seizure of property.-*

(1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production

of such property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six of such proclamation. months from the date of such proclamation.”

7. The seized motorcycle is standing idle at the parking place of the Police Station. The Investigation Officer has already drawn seizure panchanama of the vehicle in question. The prosecution has not denied that, the present Petitioner is not registered owner of the seized Motorcycle under seizure panchnama in the crime. Therefore, considering the nature of crime as well as long period which may be consumed for conclusion of the trial and save deterioration of the vehicle, it would be just and proper to release the Motorcycle No. MH-17-CG-3764 in favour of the Petitioner on execution of certain terms and conditions.

8. In view of the above, I am inclined to grant present Petition and proceed to pass the following order;

ORDER

- (i) The Writ Petition is allowed.
- (ii) The impugned order dated 12.02.2024 passed by the learned Additional Sessions Judge, Sangamner Dist. Ahmednagar on Exh.4 in Sessions Case No.78 of 2023, is hereby quashed and set aside.
- (iii) Motorcycle bearing Registration No. MH-17-CG-3764 be released in favour of the Petitioner on execution of surety bond of Rs.75,000/-.
- (iv) The Petitioner shall furnish undertaking that;
 - (a) He shall not sale or transfer the said vehicle in favour of any other person during the course of trial.
 - (b) He shall not change the nature / colour of the vehicle.
 - (c) He shall produce the said vehicle as and when directed by the Court during the course of trial for identification and he shall not dispute about identification of the vehicle.

[Y. G. KHOBRAGADE, J.]