



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

957 CRIMINAL WRIT PETITION NO. 2082 OF 2024

**SANTOSH S/O BHARAT CHAVAN
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for the Petitioner : Mr.P. P. More
APP for Respondent/State : Mr.K.K.Naik

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CORAM : SHAILESH P. BRAHME, J.
DATE : 4th APRIL 2025

PER COURT :

. Heard both sides finally though formal notice was not issued in this matter.

2. The petitioner who is the owner of the Innova Car bearing registration No. MH-24-AS-4001 submitted application Exhibit-23 for the custody of the vehicle under Section 457 of Cr.P.C.(Section 503 of B.N.S.S). He claims to be owner of. It was seized from the custody of co-accused Dadasaheb Ruchke on 09.05.2023 in pursuance of C.R No. 43 of 2023 registered with M.I.D.C Police Station, Latur. The application was contested. It was rejected by the trial magistrate vide order dated 13.03.2024. Being aggrieved, petitioner preferred Criminal Revision Application No. 35 of 2024. By judgment and order dated 03.07.2024, revision was dismissed. Hence, the petitioner is knocking the doors of this Court.

3. Petitioner is the owner of the vehicle in question. He is not arrayed as accused. Learned counsel for the petitioner submits that he and his vehicle are no way concerned with the offence and his vehicle has not been used for commission of the offence. He was the only claimant seeking custody of the vehicle and he was ready to furnish bond or undertaking. It is contended that denial of custody of the vehicle is perverse and liable to set-aside.

4. Learned APP supports impugned orders. He would submit that it would be unsafe to release vehicle in favour of the petitioner. Both the courts below have considered all aspects of the matter in denying the custody of the vehicle. It is vehemently submitted that infact it reveals from record that the vehicle was purchased by accused persons by using amount of defalcation. The further investigation is required to disclose true facts.

5. I have considered rival submissions of the parties. On 21.01.2023, first information report was lodged. The allegations are pertaining to the economic offences First information report does not disclose involvement of the petitioner or the vehicle in question. The vehicle was seized from co-accused-Darudas Ruchke on 09.05.2023. The registration of the vehicle is in the name of the petitioner. Petitioner is the only claimant of the vehicle. The registration document including R.C. book disclosed that petitioner is the owner of the vehicle. Under this circumstances, I do not find that there is

any impediment in releasing the vehicle in favour of the petitioner.

6. I am fortified in my view by the ratio laid down by the Supreme Court in the matter of **Sundarbhai Ambalal Desai and Ors. vs. State of Gujarat** reported in (2002) 10 SCC 283. The relevant extract are as follows :

“17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

“21. However these powers are to be exercised by the concerned Magistrate. We hope and trust that the concerned Magistrate would take immediate action for seeing that powers under Section 451 Cr.P.C. are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the concerned High Court in seeing that the rules framed by the High Court with regard to such articles are implemented properly.”

7. I propose to follow the principles laid down by the Apex Court in the above matter, which is clearly made applicable to the present case. Both the courts below committed error of jurisdiction in denying custody to the petitioner. Petitioner has already shown readiness to execute bond and undertaking. In that view of the matter, I pass following order :

ORDER

a) Writ Petition is allowed partly.

b) Impugned order dated 13.03.2024 below Exhibit-23 passed by Judicial Magistrate First Class, Latur in R.C.C No.642 of 2023 and judgment and order dated 03.07.2024 passed by Learned Additional Sessions Judge, Latur in Criminal Revision Application No. 35 of 2024 are quashed and set-aside.

c) Application Exhibit-23 stands allowed on following conditions :

i) Vehicle be released in favour of the petitioner on furnishing personal bond of Rs.30000/- (Rupees Thirty Thousand Only) with undertaking to be given to the trial court that petitioner shall not use the vehicle for commission of any offence; and he shall produce the vehicle as and when called upon by the trial court.

d) Writ Petition is disposed of in above terms.

[SHAILESH P BRAHME, J.]