

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 57 OF 2026

Sagar Subhash Dhabade,
Age 26 years, Occ. Business,
R/o. Gat M.208, Shinde Colony,
Urali Kanchan, Baribhadak,
Thandanwadi, Urali Kanchan, Pune.

.. PETITIONER

VERSUS

1. The State of Maharashtra
2. Vanita Siddheshwar Mamane,
Age 36 years, Occ. Household,
Kasai, Tuljapur, Dharashiv.

Mr. Amarsinha D. Sonkawade, Advocate for the applicant.
Mrs. P.J. Bharad, APP for respondent State.
Ms. Sayyed Gausiya N. (appointed through legal aid) for respondent No.2
complainant.

CORAM : MEHROZ K. PATHAN, J.
DATE : 10th APRIL, 2026.

ORDER :-

1. The petitioner has filed the present petition thereby praying for quashing and setting aside the order dated 15.12.2025 passed by the trial court thereby rejecting the application for release the vehicle of the petitioner on Supurtnama.

2. The learned counsel for the petitioner submits that the petitioner is owner of the vehicle Maruti Ertiga Green colour bearing Registration No. MH-12/PN 0937 was seized in Crime No. 20 of 2024 and is presently lying in the custody of the police station since the date of commission of offence i.e. 18.1.2024 and no other person has claimed the custody of the vehicle. Hence, the applicant may be granted custody of the vehicle. The learned counsel for the applicant relies upon

the judgment of the Honourable Supreme Court in the matter of ***Sundarbhai Desai Vs. State of Gujarat reported in (2002)10 SCC 283***, to submit that instead of keeping the vehicle being rusted lying in the police station for years together when there are chances of the vehicle being stolen, the custody of the vehicle should be handed over to the owner of the vehicle, particularly, if the owner is ready to give an undertaking to return the vehicle as and when directed by the trial court.

3. The learned counsel further relies upon the judgment of the Supreme Court in the matter of ***Bishwajit Dey vs. State of Assam, reported in (2025) 3 SCC 241*** to submit that the vehicle can be released in favour of the owner of the vehicle if he gives an undertaking to produce the vehicle as and when directed by the trial court. The learned counsel for the petitioner, therefore, submits that the petitioner is ready to give an undertaking to produce the vehicle as and when so directed by the trial court during the trial and is further ready to give further undertaking that he will not use the vehicle in commission of any other offence and also would not sell the same.

4. Per contra, the learned APP and learned appointed counsel for informant in said Crime No. 20 of 2024, vehemently oppose the application on the ground that the applicant is involved in a serious crime of committing murder. The petitioner has used the said vehicle in commission of crime by deliberately giving dash to the deceased. The vehicle is an important piece of evidence. It would be required to establish the guilt of the accused in the commission of crime. If the petitioner is handed over the custody of the vehicle, there is every likelihood that the petitioner may dispose off the vehicle and thereby cause disappearance of the evidence in order to save himself from the punishment.

5. The petitioner is accused of committing murder of deceased Basweshwar Bhimashankar Jalkote i.e. brother of the complainant herein. The offence alleged against the petitioner is that of murder. Looking to the gravity of the offence, the vehicle being an important piece of evidence, the petitioner may not be handed over the custody of the vehicle. The petition is without any substance and merit and hence, the same is liable to be rejected.

6. I have gone through the FIR and the charge sheet filed in the aforesaid crime No 20 of 2024 which is registered on 18.1.2024 on the complaint of one Vanita Bhimashankar Jalkote, who is the real sister of Basweshwar Jalkote. The Sessions Case No. 91 of 2024 is registered for the said offence. The complainant Vanita is also a party respondent in the present petition, who was served with the notice of the present petition as she had opposed the release of vehicle before the trial court. However, nobody appeared on her behalf, as such, Ms. Sayyed Gausiya, Advocate was appointed to represent the respondent No.2 herein, who is the sister of the deceased.

7. After perusal of the record and the submissions advanced by the counsel for petitioner, the learned APP as well the appointed counsel, it can be seen that the petitioner is a prime accused in the aforesaid crime against whom there are serious allegations of committing murder of deceased Basweshwar. The vehicle is an important piece of evidence so as to establish the guilt of the accused. There are allegations that the petitioner was beating the brother of the complainant mercilessly while he was sitting in the car during the incident and when the deceased ran away from the car, the petitioner gave a dash of the car, whereby, the deceased had sustained grievous injuries. The said dash was given by the present car owned by the petitioner i.e. Maruti Ertiga Green Colour Car

bearing Registration No. MH-12/PN 0937.

8. The allegations about giving dash by the vehicle are specifically stated in the FIR by the complainant. The complainant – sister of the deceased was also allegedly assaulted by the petitioner in the said incident and thus, she is an eye witness to the said incident. The Honourable Supreme Court in the case of *Sundarbhai Desai (supra)* was pleased to hold that the vehicle can be released in favour of the owner of the vehicle if he gives an undertaking to produce the vehicle as and when directed by the trial court. However, taking into consideration the allegations against the petitioner who is alleged to have committed murder of the deceased Basweshwar by giving dash with the present vehicle. The vehicle turns out to be an important piece of evidence and to rule out any possibility of the vehicle being disposed off by the accused during pendency of trial and to destroy the evidence against him. The learned trial court has rightly rejected the application filed by the petitioner for release of the vehicle on Supurtnama, as the apprehension expressed by the trial court cannot be said to be baseless.

9. The judgment of the Supreme Court in case of Bishwajit Day (cited supra) relied upon by the petitioner lays down four scenarios to be considered by the courts for release of the vehicle in the custody of the claimant. It is only in the third and fourth scenario where the claimant is not an accused in the crime that the vehicle can be released on Supurtnama as per the judgment of the Honourable Supreme Court in the matter of Bishwajit Dey (supra).

10 In the present, the petitioner is not only an accused but is a prime accused, who is alleged to have committed murder of the deceased Basweshwar by giving an intentional dash of the vehicle. The Post Mortem report of the deceased shows multiple injuries sustained, leading

to his death, corroborating allegations of murder by giving dash of vehicle. Thus, the judgment of the Honourable Supreme Court in the matter of *Biswajit Dey (cited supra)* may not be applicable in the present case. Moreover the said judgment pertains to the crime under NDPS Act, and the release of the vehicle in favour of owner who was not even an accused.

11. The present vehicle was used at the time of alleged crime. As per the allegations of the prosecution, it is a material evidence. Much may depend upon its production as an exhibit during the trial. The vehicle is an important piece of evidence in a murder trial and has to be maintained in the same condition as far as possible for being produced, if to required as evidence in the trial.

12. Thus, taking into consideration the allegations against the petitioner, there is every likelihood that the petitioner may dispose off the vehicle in question, if released in his custody. The vehicle is a prime piece of evidence relied upon by the prosecution to establish the guilt of the present petitioner. Under the circumstances, I see no infirmity in the order passed by the learned lower court below.

13. The petition, therefore, is without substance and merit and hence, the same is hereby rejected. Fees of the counsel appointed to represent the respondent No.2/complainant is quantified at Rs. 10,000/-, to be paid by the Secretary of the High Court Legal Services Sub-Committee, Aurangabad. Criminal writ petition stands disposed of accordingly.

[MEHROZ K. PATHAN]
JUDGE.

grt/-