

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2966 OF 2025

Khalil Usman Mulla

...Petitioner

Versus

1. The Senior Inspector of Police, through
Bazarpeth Police Station, Kalyan
2. The Senior Inspector of Police, Economic
Offences Wing, Thane
3. The Addl. Commissioner of Police,
Special Investigation Team (SIT) Thane
Police Commissionerate, Thane.

4. State of Maharashtra

...Respondents

WITH

INTERVENTION APPLICATION (ST) NO. 23871 OF 2025

IN

CRIMINAL WRIT PETITION NO. 2966 OF 2025

Nisar Abdul Rehman Shaikh and ors.

...Applicants

In the matter between

Khalil Usman Mulla

...Petitioner

Versus

1. The Senior Inspector of Police and ors.

...Respondents

WITH

CRIMINAL WRIT PETITION NO. 4712 OF 2025

Sharib Nasir Mulla

...Petitioner

Versus

1. The Senior Inspector of Police, through
Bazarpeth Police Station, Kalyan
2. The Senior Inspector of Police, Economic
Offences Wing, Thane
3. The Addl. Commissioner of Police,
Special Investigation Team (SIT) Thane
Police Commissionerate, Thane.

4. State of Maharashtra

...Respondents

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WITH
INTERVENTION APPLICATION (ST) NO. 23372 OF 2025
IN
CRIMINAL WRIT PETITION NO. 4712 OF 2025

Nisar Abdul Rehman Shaikh and ors. ...Applicants
In the matter between
Khalil Usman Mulla ...Petitioner
Versus

1. The Senior Inspector of Police and ors. ...Respondents

Mr. Mubin Solkar, a/w Tahira Qureshi, Hemal Shah and Zahid Barud, i/b Tahir Hussain, for the Petitioner in WP/2966/2025.

Mr. Mubin Solkar, a/w Tahira Qureshi, Hemal Shah and Zahid Barud, i/b Anas Khalid Shaikh, for the Petitioner in WP/4712/2025.

Mr. A. R. Metkari, APP for the State.

Mr. Prachish Shukla, for the Interveners in both IA.

CORAM: N. J. JAMADAR, J.

DATED: 12th MARCH, 2026

JUDGMENT:-

1. Rule. Rule made returnable forthwith and, with the consent of the learned Counsel for the parties, heard finally.

2. These petitions under Article 227 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, ("BNSS") assail almost identical orders dated 15th February, 2024 passed by the learned Additional Sessions Judge, Kalyan, in MA/188/2024 and MA/187/2024, whereby the applications preferred by the petitioner for release of Toyota Innova Car bearing Registration No.MH05-FG-0050 and Kia

Seltos Car bearing Registration No.MH05-FG-5050, respectively, seized in connection with CR No.416/2024 registered with Bazarpeth Police Station, for the offences punishable under Sections 471, 468, 467, 420, 409 and 120B of the Indian Penal Code, 1860 (“the Penal Code”) and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (“the MPID Act, 1999”), came to be rejected.

3. Yusuf Dhuru, who is arraigned in CR No.416/2024 was the registered owner of the Toyota Innova Car bearing Registration No.MH05-FG-0050, Chassis No.MBJABBAA3014 330870124 and Engine No.M20ANB77545 and Kia Seltos Car bearing Registration No.MH05-FG-5050, Chassis No.MZBET813 MPN534157 and Engine No.D4FAPM909967. During the course of investigation the said cars were seized by EOW, Thane.

4. The petitioners claim to be *bona fide* purchasers of the said cars for valuable consideration. The accused Yusuf Dhuru had offered to sell the said cars to the petitioners. For Toyota Innova Car, the consideration was agreed at Rs.24,00,000/-. The petitioner in WP/2966/2025 paid part consideration of Rs.12,00,000/- in cash, in the month of September, 2024, and the balance amount of Rs.12,00,000/- was paid via RTGS on 20th September, 2024. For Kia Seltos Car, the consideration was

fixed at Rs.14,00,000/-. The petitioner in WP/4712/2025 paid the consideration in cash and through RTGS. Thereupon the said vehicles came to be registered in the name of the respective petitioners in the month of September, 2024. Thereafter, the Investigating Officer addressed a communication to the RTO not to effect transfer in respect of the said vehicles on 14th October, 2024. The petitioners claim that they *bona fide* surrendered the vehicles alongwith all the original documents at the office of EOW, Thane, on 29th October, 2024.

5. Asserting that the petitioners were the *bona fide* purchasers and registered owners of the said vehicles, applications were filed before the trial Court.

6. By the impugned order, the learned Judge was persuaded to reject the application opining that the petitioners had purchased the cars from Yusuf Dhuru, the accused, who was involved in defrauding the flat purchasers to the tune of Rs.1,82,00,000/-. Yusuf Dhuru apparently purchased the cars by misappropriating the flat purchasers' money. Thereafter, the accused dishonestly disposed of the above cars. Since the prosecution was in the process to send a proposal to the Government to sell the properties of the accused, release of the

cars in favour of the petitioners would create obstacles in the process of attachment and sale of the properties of the accused.

7. Mr. Mubin Solkar, the learned Counsel for the petitioners, submitted that the documents on record clearly demonstrate that the transaction of purchase of the subject cars had taken place before the Investigating Officer, gave intimation to the RTO not to effect the transfer. Moreover, the petitioner, in the respective petitions, had parted with valuable consideration as is evident from the copies of the bank statements. In fact, the Investigating Officer has drawn a conclusion that the accused had deceived the petitioners as well, by selling the cars though he was instructed not to transfer the cars. In this backdrop, the learned Judge could not have rejected the applications for return of the cars.

8. Mr. Solkar further submitted that the detention of the seized vehicles at the Police Station serves no purpose. At any rate, if the vehicles are released upon furnishing an appropriate bond, the petitioners would co-operate with the prosecution agency if any orders are passed under the provisions of the MPID Act, 1999.

9. Mr. Metkari, the learned APP, resisted the petitions. It was submitted that the transactions in question were entered

into by the accused with the petitioners with a view to defeat the provisions of the MPID Act, 1999. The transactions, according to the learned APP, were *mala fide* and hit by the provisions of Section 8 of the MPID Act, 1999. It was submitted that in the event the vehicles are released the rights of the depositors would be severely prejudiced and the purpose of the MPID Act, 1999 would be defeated.

10. I have given careful consideration to the submissions canvassed across the bar. In the case at hand, the timeline assumes significance. Incontrovertibly, the subject vehicles were registered in the name of Yusuf Dhuru. The claim of the petitioners that they had parted with consideration in pursuance of the contract to purchase the subject cars, in the month of September, 2024, finds support in the copies of the statements of accounts. It further appears that, the transfer of the vehicle Toyota Innova Car bearing Registration No.MH05-FG-0050 was effected in the month of September, 2024 and the certificate of registration was issued in the name of the petitioner in WP/2966/2025 on 27th September, 2024, whereas the transfer of the vehicle Kia Seltos Car bearing Registration No.MH05-FG-5050 in the record of the RTO was also effected in the month of September, 2024 and the registration certificate

was issued in the name of the petitioner in WP/4712/2025 on 30th September, 2024.

11. The prosecution claims that in the month of August, 2024, the accused Yusuf Dhuru was instructed not to transfer the said vehicles. However, it does not appear that the RTO was informed by the Investigating Officer not to effect the transfer of the above cars before the RTO effected the transfer and issued the registration certificates in the name of the respective petitioners.

12. The charge-sheet filed by the Investigating Officer, post conclusion of the investigation, also lends *prima facie* support to the claim of the petitioners. The Investigating Officer has categorically recorded that the accused, despite instructions, not to transfer the cars, had sold the subject cars to the petitioners by suppressing the said fact and thereby deceived the petitioners. Conversely, there is no material to *prima facie* indicate that the petitioners purchased the cars in connivance with the accused.

13. In any event, the submissions of the learned APP that the transfers are *mala fide*, do not merit acceptance. Firstly, it does not appear that the Government has attached the subject cars by invoking the powers under Section 4 of the MPID Act, 1999.

Secondly, as noted above, the petitioners are the registered owners of the respective cars. The provisions of Section 8 of the MPID Act, 1999, undoubtedly empower the Designated Court to attach the properties which are transferred by the financial establishment *mala fide*, if there is reasonable cause for believing that the said financial establishment has transferred any of the property otherwise than in good faith and for consideration. However, the Designated Court is required to provide an opportunity of hearing to the transferee of such property to show cause why so much of the transferee's property as is equivalent to the proper value of the property transferred should not be attached.

14. In the aforesaid view of the matter, detaining the subject cars in the police station would not serve any useful purpose. A profitable reference can be made to the judgment of the Supreme Court in the case of ***Sunderbhai Ambalal Desai vs. State of Gujarat***¹, wherein the Supreme Court has emphasised that it is of no use to keep the seized vehicles at the Police Station for a long period. The Supreme Court has delineated the approach to be adopted by the Court in dealing with an

1 (2002) 10 Supreme Court Cases 283.

application for the return of the seized vehicles. The observations in paragraphs 17 and 18 read as under:

“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.

18. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If Insurance company fails to take possession, the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared.”

15. The position which thus emerges is that, the petitioners are the registered owners of the subject vehicles, *prima facie* the petitioners seem to have parted with valuable consideration and they did not seem to have the inkling about the instruction to their transferor not to transfer the subject cars. Thus, this Court is inclined to allow the applications for the return of the vehicles subject to further orders that may be passed by the Designated Court under the provisions of MPID Act, 1999 and BNSS, 2023.

16. Hence, the following order:

: O R D E R :

- (i) The petitions stand allowed.
- (ii) The impugned orders stand quashed and set aside.
- (iii) The trial Court is requested to pass an appropriate order for release of the vehicles in favour of the respective petitioners upon furnishing appropriate undertaking on an affidavit and Indemnity Bond to the satisfaction of the trial Court, within a period of one week from the date of communication of this order.
- (iv) The release of the vehicles shall be subject to further orders that may be passed by the trial Court under MPID Act, 1999 and BNSS, 2023.
- (v) Rule made absolute to the aforesaid extent.
- (vi) In view of disposal of the petitions, IA(ST)/23871/2025 and IA(ST)/23372/2025 also stand disposed.

[N. J. JAMADAR, J.]