

Order Below Exh.1 in Cri. M.A. No. 01/2018

Read. Heard at length. Perused available record. The applicant has prayed to return of vehicle motor cycle Hero Honda, Splendor Plus bearing registration no. MH-39/H-7805, chasis no. AHE15610 and engine no. AHE17173 seized in crime registration no. 317/2017 by Excise Department, Nandurbar for the offence punishable under section 65(e) of the Bombay Prohibition act.

2) It is submitted that Shri Magan Shiva Gavit is owner of the seized muddemal. It is submitted that the said muddemal is required for daily use of the applicant and it shall be damaged if kept for long time in the custody of the police.

3) The applicant further submits that he is ready to abide by all the terms and conditions imposed by this Court. A prayer is thus made to return the property upon execution of supartnama and direction to the concerned department with regard to the same.

4) The investigating officer has filed his say at Exh.5 and say of accused is at Exh.6. Accused has given no objection to return the property. I.O. has taken objection that vehicle may use again for the commission of offence. Learned A.P.P. has also given say as necessary order be passed considering say of the investigating officer.

5) In the present case at hand the applicant has filed verified copy of Aadhar Card & certificate of registration to substantiate his claim. As discussed above, the document and the pleadings show that the applicant has been successful to substantiate his claim. As there is no dispute about the ownership of seized vehicle, it is desirable to return it to registered owner. There is no claimant except the applicant. I am of the view that, the vehicle is no more required for the investigation purpose. If the vehicle allowed to be retained at the police station without any care it's

condition will deteriorate. Hence, considering the above discussed aspects, in my considered opinion, the applicant is entitled for interim custody of vehicle. In the result, the following order:-

-ORDER-

- 1) The application stands allowed.
- 2) The property i. e. motor cycle Splendor Plus bearing registration no. MH-39/H-7805, chasis no. AHE15610 and engine no. AHE17173 seized in crime registration no. 317/2017 by Excise Department, Nandurbar be returned to the applicant Shri Magan Shiva Gavit upon furnishing Supartnama of Rupees 50,000/- (Rupees Fifty Thousand only).
- 3) The applicant shall not transfer the said property to any person by any manner, shall not alienate, encumber, create third party rights or part with the possession of the vehicle till conclusion of trial and shall produce it before the Court, as and when directed.

Navapur

Date: 14/05/2018

(N. R. Yalmane)

Judicial Magistrate First Class
Navapur