

Order below Exh. 1 in Cri.M.A.No. 01 / 2018
Shakeel Ahmad Suleman Makrani Vs. State

01- This is an application under Section 457 of Cr.P.C. moved by applicant for return of vehicle, i.e. Mahindra Tractor-575 bearing registration No. MH-39-N-3502, seized in Crime No.77/2017 of P.S. Akkalkuwa, registered for offences punishable under section 420 of I.P.C. However, subsequent thereto, chargesheet is filed by P.S. Akkalkuwa and registered as R.C.C. No. 5/2018. Thus, this application is being treated as per provisions of Section 451 of Cr.P.C.

02- It is contention of applicant that he is owner of said vehicle, however its original R.C. book is with finance company. He delivered the same to accused for certain repairs. Subsequently, accused sold the same to third person. After knowledge of said propositions, he lodged report with P.S. Akkalkuwa whereupon said crime was registered. During investigation, said vehicle was seized and lying in idle condition in compound of P.S. Akkalkuwa, and therefore its condition is deteriorating. He needs custody of the vehicle for running his livelihood and doing business of transportation of goods. He is ready to abide with any condition for the custody of said vehicle. Hence this application.

03- Initially say of IO and learned APP were called for. Learned APP submitted that, insurance paper of the vehicle is not produced by the applicant. He also submitted that said vehicle is required for the purpose of identification during the trial. He requested to pass necessary order by imposing certain conditions.

04- I.O. has submitted that said vehicle was seized from one Atmaram Fakira Rahase, who is now arraigned as witness in the case. He also submitted to return the vehicle, if feasible, by imposing certain conditions.

05- Say of said Atmaram Rahase was called for. However, I.O. has submitted that said person is not responding.

06- Heard Ld. APP Shri H.N. Padvi. Also perused remand papers as well as chargesheet bearing R.C.C. No. 5/2018.

07- From the documents on record, it is seen that the applicant is registered owner of said vehicle. It is also further seen that, the said vehicle is not insured. Need of the applicant for said vehicle is also genuine. Even though apprehension of prosecution agency taken into consideration, there is no fruitful purpose in keeping the vehicle in idle condition, which will definitely deteriorate the condition and diminish the valuation of said vehicle.

08- Thus, considering the material and circumstances appearing from record, I am of the opinion that the application deserves to be allowed. However, considering the apprehension of prosecution agency, I am also of the opinion that certain conditions be imposed on applicant for the said purpose. Thus following order.

ORDER

- 1) Application is allowed, subject to following conditions,
 - A) Applicant shall execute supurtnama-cum-indemnity bond of Rs.5,00,000/- (Rupees Five Lacs only), for the said purpose.
 - B) He shall deposit an amount of Rs. 5,000/- as cash surety till filing of documents pertaining to valid insurance of said vehicle.
 - C) He shall submit an undertaking that, he will not sell, alter, mortgage or transfer said vehicle without prior permission of this Court and shall produce the same as and when directed by the Court.

- D) He shall submit self attested photostat copies of all the documents in respect of seized vehicle to the investigating agency.
 - E) He shall submit an undertaking that, he will assist the prosecution in every lawful manner and will also attend the investigating officer, as and when required.
 - F) He shall also submit an undertaking that, he shall be subject to process of this Court and will attend the Court as and when required.
- 2) Investigating officer is directed to obtain photographs of seized vehicle from all the angles, and shall obtain signatures of applicant on it.
 - 3) He is also directed to prepare a panchanama to that effect.
 - 4) Investigating officer shall submit those self attested photostat copies of documents, photographs and panchanama for inclusion thereof in said R.C.C. No. 5/2018, within a period of 15 days from the date of actual return to the applicant.
 - 5) Original copy of this order be placed below Exh.1 in said R.C.C. No. 5/2018, and it's true copy be placed with Cri M.A. No. 1/2018.

Date : 26.02.2018
Akkalkuwa

(**Anand D. Karbhajan**)
Judicial Magistrate First Class,
Akkalkuwa, Dist.Nandurbar