

IN THE COURT OF ADDL. CHIEF METROPOLITAN MAGISTRATE,
37TH COURT, ESPLANADE, MUMBAI
MISC. APPL. NO. 3229/MISC/2023
C.R.NO. 09/2023 BYCULLA POLICE STATION

Tofeeq Salim Qureshi

...Applicant

V/s.

1) The State of Maharashtra
Through DCB CID UNIT-III

...Respondent

ORDER

The applicant has made an application for return of property i.e. cash amount of Rs.1,88,790/-

2. It is the contention of the applicant that the he was apprehended in above crime and at that time police seized an amount of Rs.1,88,790/- from him. He has co-operated in investigation. His statement and statements of other witnesses have been recorded. However, nothing wrong or suspicious was found against him. Therefore, he has prayed for return of above said cash amount.

3. The learned APP has taken objection on the ground that the present property is not subject of the release. This is a NC matter. Therefore, no such report produced before the court. It is not identified before the court. As per section 110 of the Evidence Act burden of ownership lies on the applicant but no evidence is filed in this regard. Hence, prayed to reject the application.

4. The Investigating Officer has given no objection to return the above said cash amount to the applicant.

5. After going through the record, it appears that the action was taken against the applicant under section 41(1)(d) of the Code of

Criminal Procedure. The Investigating Officer has obtained permission from court under section 155(2) of the Code of Criminal Procedure to conduct investigation. However, after laps of three months also he failed to file charge-sheet against any person. From the record itself it is clear case of the prosecution that the amount was belong to Tofeeq Salim Qureshi which was found in the vehicle of Jailaxmi. Jailaxmi also has given statement to police on 08/05/2023 that the amount belongs to the applicant. The I.O. has specifically stated that the amount belongs to the applicant and no objection to release the same. Though, the learned APP has taken objection to release the property, but no sound reason is given to detain the same. Therefore, no purpose will be served by keeping the amount lying with police. Hence, I pass the following order :-

ORDER

- 1) The application is allowed.
- 2) The amount of Rs.1,88,790/- be returned to the applicant on his executing indemnity bond of Rs.2,00,000/-.
- 3) The I.O. is directed to prepare detail panchanama of the amount while handing over it to the applicant.
- 4) The applicant is directed to produce the same as and when required by the court.

Date : 17/08/2023

Addl. Chief Metropolitan Magistrate,
37th Court, Esplanade, Mumbai