

MHGA030010252023



IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS(Court No.2),
GADCHIROLI
(Presided Over by R.R. Khamatkar)

Cri.Mis.A.No.241/2023

Sau. Sweety Dinesh Samarth
Age 32 years, Occ., Household,
R/o. Rampuri Ward, Gadchiroli.
Tah. Dist. Gadchiroli.

... **APPLICANT**

VERSUS

State of Maharashtra,
Through Police Station, Gadchiroli,
Tah. and Distt. Gadchiroli.

... **NON-APPLICANT**

Appearance :

For Applicant	: Learned Adv. Shri. K.S Akhade,
For State	: Learned APP Shri. B.K. Khobragade.

ORDER BELOW EXH.1
(Passed on 19th Day of August, 2023)

This is an application filed by the applicant under Section 457 of the Code of Criminal Procedure, 1973 for releasing two wheelers moped vehicle "Activa DLX" bearing Regd. No.MH-33-AE-6748 on supratnama.

2] The applicant contented that, Police Station, Gadchiroli seized the vehicle in crime no.577/2023 registered for the offence punishable u/s. 12A of Maharashtra Prevention of Gambling Act, 1887 from the possession of her husband. She has no connection with the offence. It required him for her daily use. If it stands for a longtime in the premise of non-applicant, then possibility of damaging of its parts cannot be ruled out. She undertakes before this court that she will not sale, mortgage,

could not change its nature and will not disposed it by any means. However, she prayed for releasing the said vehicle on Supratnama. Hence, this application.

3] The charge sheet is yet to be filed by the police in the said offence. After receipts of this application, I have called the say of Investigating Officer and Ld. Special APP. The Investigating officer has filed his say at below Exh.5 and submitted that, it has been used by the accused in the alleged vehicle in the offence. If the vehicle released on supratnama, then it will use in similar kind of offence. Therefore, application kindly be rejected.

4] The Ld. Special APP objected an application by saying that, if vehicle came to be released on supratnama, then she will not follow the terms and conditions imposed by this Court. Similarly, she will used it repeatedly in similar kind of offence. Therefore, application kindly be rejected.

5] Having perusal of charge sheet appears that, the applicant has filed document such as xerox copy of printed FIR, xerox copy of insurance policy, verified xerox copy of vehicles particular and verified xerox copy of his Adhar Card etc.

6] Having perusal of documents filed on record shows that the vehicle owned by the applicant. But it has been seized from the custody of her husband. Thus, her husband has filed his say at below Exh. 8 and submitted that, the applicant is owner of a seized vehicle and he has no objection to release it in favour of accused. At present, this court is not going to decide final custody of vehicle. The applicant is owner of a vehicle. Therefore, interim custody of a vehicle must be given to the applicant till further order. Hence, I pass following order.

ORDER

1] The application is allowed.

- 2] The seized two wheelers moped vehicle "Activa DLX" bearing Regd. No.MH-33-AE-6748 be handed over to applicant until further order, on the execution before this court of indemnity bond of Rs.35,000/- (Rs. Thirty-Five Thousand only).
- 3] The Police Station, Gadchiroli is hereby directed to take photographs of the seized vehicle and prepare panchanama while releasing the vehicle, in order to use it during the course of trial for the evidence.
- 4] The applicant is directed to undertake that, she shall not sale or transfer the released property without the prior permission of this Court.
- 5] The applicant shall undertake that she shall not change the colour, size or other features of the vehicle and to maintain and preserve the property in all respects.
- 6] The applicant shall undertake to produce the said vehicle as and when required by this Court and furnish the said indemnity bond before Investigating Officer, Police Station, Gadchiroli.
- 7] Accordingly, an application is disposed of.

Date: 19.08.2023.

(R.R. Khamatkar)
Judicial Magistrate, First Class,
(Court No.2), Gadchiroli.