

IN THE COURT OF 4th JUDICIAL MAGISTRATE FIRST CLASS,
COURT NO.3, NASHIK.



Misc. Cri. Appln. No. 1008/2023

Applicant :- **Jay Mataji Transport Through**
Prop. Kailas Shivaji Jadhav
Aged 51 years, Occu. Transport,
R/o. Flat No.9, Tushar Society,
Kala Nagar, Dindori Road, Meri Mhasrul,
Tal. Dist-Nashik.

- Versus -

Non-applicant :- **State of Maharashtra**
Through, PSO, Police Station, Aadgaon,
Nashik.

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<i>Advocate for applicant</i>	<i>:-</i>	<i>Shri. S. S. Pagar</i>
<i>A.P.P. for State.</i>	<i>: -</i>	<i>Smt. Chitalkar</i>

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Order below Exh.1

(Passed on dated 25th day of August, 2023)

This is an application filed under section 457 of Code of Criminal Procedure (Cr.P.C) for interim custody of the 118 Gas stoves (गॅस शेगडी) of Suryawood Stove Company, seized by PSO, Police Station, Aadgaon, Nashik in Cr. No. 200/2023 for the offence punishable under Section 406, 34 of Indian Penal Code.

2] Say of I.O. & Ld. A.P.P. has been called. I.O. filed his say at Exh. 5 and submitted his no objection to hand over interim custody of seized gas stoves to the applicant, on imposing certain terms and condition.

3] Ld. A.P.P. Smt. A. S. Shinde filed her say overleaf and contested the application. She submitted that and submitted that seized property is required till disposal of the case. The applicant may sell or may change the nature of seized property, after getting its interim custody. Hence, she lastly requested to reject the application.

4] Heard Ld. advocate Shri. S. S. Pagar for applicant and Ld. A.P.P. Smt. A. S. Shinde for the State, at length.

5] In support of this application, the applicant filed on record photo copy of FIR, Invoice dated 27/06/2023, copy of Udyam Registration Certificate, Copy of Aadhar Card etc. documents. On perusal of aforesaid documents it prima-facie appears that said gas stoves were purchased in the name of Jay Matadi Transport. It further appears that said transport company having Udyam Registration Certificate. Furthermore, no one other than the applicant has applied for the custody of seized muddemal. It further appears that I.O. submitted his no-objection for grant of custody of seized muddemal to the applicant. Hence, considering documents on record, it is just and proper to hand over the interim custody of aforesaid muddemal in favour of the applicant. Certainly, if the said muddemal is kept idle with police station without any use, it may cause rusting of the parts and will result into monetary loss to the applicant.

6] Considering prima facie ownership, the application deserved to be allowed in favour of the applicant. At the same time, for securing the presence of aforesaid muddemal as and when required during trial, reasonable conditions must be imposed on the applicant. In view of the same, I pass following order-

ORDER

1] Application is allowed.

2] I.O/PSO, Aadgaon is directed to hand over the custody of 118 Gas stoves (गॅस शेगडी) of Suryawood Stove Company,

seized by PSO, Police Station, Aadgaon, Nashik in Cr. No. 200/2023 for the offence punishable under Section 406, 34 of Indian Penal Code in favour of the applicant on executing bond of Rs.1,50,000/- (In words Rupees One Lakh Fifty Thousand only) on stamp paper of Rs.200/- and after preparing due panchnama and after taking photographs of the said muddemal.

- 3] The indemnity bond be executed before this Court. The I.O. is directed to tag true copy of this order along with copy of indemnity bond, panchnama and photographs with the final report.
- 4] Applicant shall produce the above mentioned muddemal as and when required by the Court.
- 5] Applicant shall not change basic nature of the aforesaid muddemal till conclusion of trial and shall not transfer its ownership till the disposal of the case.
- 6] I.O. is directed to obtain residential as well as identity proof of the applicant.
- 7] Inform to I.O./PSO, Aadgaon, Nashik accordingly.

(**Mahesh D. Joshi**)

Date :25.08.2023
Nashik.

Judicial Magistrate First Class, Nashik
Court No.3, Nashik.

CERTIFICATE

I affirm that the contents of this PDF file order is same word to word as per the original order.

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| (a) Name of the Court | :-Civil Judge Jr. Div. & JMFC Court,
Court No. 3, Nashik |
| (b) Name of the Stenographer | :-Smt. G. M. Joshi |
| (b) Checked and signed on | :- 25/08/2023 |
| (c) PDF uploaded on | :- 28/08/2023 |