
(2015) 01 BOM CK 0206

In the Bombay High Court

Case No : Criminal Writ Petition No. 1482 of 2014

Gafarkhan

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 12-01-2015

Acts Referred:

Citation : (2015) ALLMR(Cri) 1757

Hon'ble Judges : V.M. Deshpande, J

Bench : Single Bench

Advocate : Rajendra S. Deshmukh, for the Appellant; S.A. Ambad, APP,
Advocates for the Respondent

Judgement

V.M. Deshpande, J.

1. Rule. Rule is made returnable forthwith. By consent of the learned counsel for the petitioner and the learned A.P.P. for the State, the Writ Petition is taken up for final hearing. The present Writ Petition arises out of the order dated 24/11/2014 passed by the learned Additional Sessions Judge, Vaijapur in Criminal Misc. Application No. 30 of 2014, by which the application filed on behalf of the present petitioner to release the property i.e. Verna Hyundai Car bearing registration No. MH-20-DJ-0314 on the Supurdnama of the petitioner, is rejected.

2. Crime No. 11-33/2014 is registered at police station Sillegaon, Taluka Gangapur, District Aurangabad for the offence punishable u/s. 20(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985. Admittedly, the present petitioner is not an accused in the said crime. The said crime is registered against (1) Babu Khanjsaph Khan @ Jani Khan and (2) Syed Ejaj Syed Ahemad. Both these accused persons are already in jail. The prosecution has already completed its investigation and charge sheet is already filed before the Special Judge.

3. Criminal Misc. Application No. 30 of 2014 was moved by the present petitioner, by which Verna Hyundai Car bearing registration No. MH-20-DJ-0314, Engine No.

D4FCEM083538, Chassis No. MALCU41RLEM158869 model of 2014, which was seized in the same crime, be released to him since he is the registered owner of the said vehicle.

4. The learned A.P.P. submitted that the State does not want to contest the statement of fact which is made by the petitioner that he is the registered owner of the said vehicle.

5. Admittedly, the present petitioner is not an accused in the crime and he is registered owner of the seized vehicle. There is no dispute that the vehicle is not muddemal property of the crime. In that view of the matter, the Court see no impediment in releasing the seized property viz. Verna Hyundai Car bearing registration No. MH20-DJ-0314 on Supurdnama in favour of the present petitioner, however, on certain conditions those are enumerated below:

(I) The petitioner shall not sell and/or transfer the ownership of the said vehicle in any manner whatsoever to any third person.

(II) The petitioner shall not create any charge on the said vehicle with anybody nor will be entitled to raise loan on the said vehicle.

(III) The petitioner shall produce the said vehicle in the Court at the time of the evidence and/or at any time when its production will be required by the learned Special Judge while deciding the case pending before it.

6. With these conditions, the Court passes the following order:

(1) The Order dated 24/11/2014 passed by the learned Additional Sessions Judge, Vaijapur in Criminal Misc. Application No. 30 of 2014 is hereby quashed.

(2) The motor vehicle viz. Verna Hyundai Car bearing registration No. MH-20-DJ-0314. Engine No. D4FCEM083538, Chassis No. MALCU41 RLEM 158869 model of 2014 be released on the Supurdnama of Rs. 20,00,000/- [Rupees Twenty Lacs only] to be executed before the learned trial Court by the petitioner.

7. Needless to mention, the conditions which are imposed upon the present petitioner shall remain in force till the completion of the trial. Hamdast granted. With the above observations, Rule is made absolute.