

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

Present: E. Pravin Kumar, B.A.,B.L.,

Judicial Magistrate No.V, Madurai

Thursday, 20th day of August 2020

Crmp.No.619/ 2020

Sundaramoorthy

S/o. Muthusamy

...Petitioner/ Owner

vs

State rep. by Inspector of police,

Karimedu Police Station,

Crime No.1120/2020

U/sec. 379 of IPC

... Respondent/Complainant

For petitioner/accused: Mr.A.Balasubramani, B.A., B.L., Advocate, (Enrol No. 1096/2011)

For Respondent/Complainant: Mrs.R.Thilagarani,M.L.,Grade II Assistant Public Prosecutor

**20.08.2020.**

**ORDER**

1. This petition is filed U/s.457 and 451 IPC For returning of the property viz YAMAHA FZ bearing in Registration Number TN 58 BB 3423 remanded in R.P.R.No.246/2020 as interim custody to the petitioner.

2. Notice issued and the prosecution has filed their reply.

3. The learned counsel for the petitioner would contend that the case property belonged to the petitioner. This petitioner is the defacto complainant in this case. His vehicle was found missing. Hence, the petitioner registered complaint, in FIR in Crime No1120/2020 in the file of Karimedu Police Station, for offence U/sec. 379 of IPC and now the property is said to have been seized by the police and handed over in court. The property is a vehicle and if kept idle, the value of the vehicle will go down. Hence, the petitioner prays that this petition may be allowed.

4. On the other hand the prosecution has stated that the petitioner is also defacto complainant. The petitioner property is TN 58 BB 3423 Yamaha FZ Black colour Two wheeler. As he is a defacto complainant, after due verification of ownership and identity of the above said property this Hon'ble ourt may passed appropriate order. And any condition may be issued by this Hon'ble court.

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5. This court has taken into consideration all the above facts and circumstances of the case and the reply of the prosecution. The property happens to be a motorized vehicle, if it is kept unused for a long time, the engine may get struck up and the value of the property may get reduced and exposed to sun and light and its value would be deteriorated. Further the Hon'ble Supreme Court of India in the recent decision as reported in 2003(1) C.T.C page 175-Sundarbhai Ambalal Desai Vs.state of Gujarat has laid down certain guidelines to the Magistrates to hand over the properties at the pre-trial stage. Taking all the facts and circumstances of this case and guidelines issued by the Hon'ble Supreme Court of India it will be just and proper to hand over the property to the petitioner herein as interim custody. After all, the petitioner is going to hold the property in the capacity of a bailee or trustee.

6. In the result, the case property Viz. YAMAHA FZ bearing in Registration Number TN 58 BB 3423 remanded in R.P.R.No.246/2020 is directed to be handed over to the petitioner herein as interim custody on the following conditions:

1. The petitioner shall produce the original RC book before this court.
2. The petitioner shall produce the photograph of the property and panchanama.
3. The Petitioner/Owner has to execute bond for himself with one another surety for a sum of Rs.60,000/- each.
4. He shall not alienate or change the nature of the property without permission of this court.
5. He shall produce the same as and when required in court.

(Sd/- E.Pravinkumar)

Judicial Magistrate No. V,  
Madurai.

