

MHCC020155532024



IN THE COURT OF SESSIONS FOR GR.BOMBAY
AT BOMBAY
ORDER BELOW EXH.31

IN

SESSIONS CASE NO. 850 OF 2024

Mihir Rajesh Shah

Age: 25 years, Occu.: Business,
R/at: Flat No.1804,
Rajashri Tower, Exer Road,
near Jain Temple, Borivali (W),
Mumbai-400092

... Applicant/Accused

Versus

1. The State of Maharashtra

(Through, Worli Police Station)

2. Rajesh Vasantrai Doshi

Age: 60 years, Occu.: Business,
R/at: 3301, B Wing, Equaria Grand,
Devidas Lane, Borivali (W),
Mumbai-400103.

3. Rajesh Damji Shah

Age: 56 years, Occu.: Business,
R/at: 1804, Rajashri Tower,
Exer Road, near Jain Temple,
Borivali (W), Mumbai-400092.

4. Rajrushi Rajendrasingh Bidawat

Age: 30 years,

R/at: 718, Omdarshan Building,

A Wing, Sodawala Lane,

Exar Road, Borivali (W), Mumbai-400092.

... Respondents

Appearance:

Ld. Advocate Mr.Nitin Sejpal for applicant/accused.

Ld. APP Ashwini Rayakar for State.

CORAM : HIS HONOUR THE ADDL.SESIONS JUDGE

SHRI. Anil D.Salunkhe(C.R.NO.56)

DATED : 24th April, 2026.

(DICTATED AND PRONOUNCED IN OPEN COURT)

ORAL ORDER

1. This application is filed by applicant/accused no.3 Mihir Rajesh Shah for return of BMW car, model No.530D M Sport LCI bearing No.MH-48-AK-4554 seized by police on 07.07.2024 in crime no.378 of 2024 for the offence punishable under Sections 105, 281, 125(b), 238, 324 (4) of the Bhartiya Nyaya Sanhita (BNS), 2023, along with Section 184, 185, 134 (A)(B) 187, 122/183 of Motor Vehicle Act, 1988, Sections 146/196, 115(7)/190, 100(2)/177, 92/177(A) of Central Motor Vehicle Act 1989, Sections 9(1)/177, 17/177(A), 12(3CC)/177, 12(1)(B)/177 of Motor Vehicle Driving Rules, 2017.

2. In short, it is alleged by informant Pradeep Liladhar Nakhva that on 07.07.2024 at around 5:25 a.m., he alongwith his wife Kaveri, aged 45 years proceeded on their Suzuki Access scooter MH-01-DU 6418 towards Worli Koliwada. When they reached Ceejay House, near

Landmark Jeep Showroom on Dr. Annie Besant Road, Worli, they were hit by a white colour car being driven in high speed and the impact of it was so powerful that both of them were lifted from the vehicle and hit the bonnet and he fell on the side way, but his wife Kaveri fell in front and was caught in the front wheel and bumper of the car. Despite this, the person driving the car continued to drive it with reckless speed dragging her from Ceejay House to Worli Sea link T Junction. Pradeep i.e. complainant noticed the person on the driving seat to be a young man between 22 to 25 years with long face having beard, whereas a middle aged person was occupying the seat next to the driver seat. He garnered all his courage and stood up and took note that the fleeing car was a white colour BMW with numberplate MH-48-AK 4554. Realizing that his wife was caught between the bumper and the left wheel of the vehicle, he chased the car, but being over weight, he could not match its speed. In the meantime, since he noticed a taxi on the road, he stopped the same and boarded the same in search of his wife and travelled a long distance, but could not trace her. Pradeep, approached Worli Police Station and while he was in the process of lodging the complaint, information was received on wireless, that one unknown woman was found lying in an injured condition on the sea link and she was being taken to hospital. It is further alleged that he, along with the police personnel, reached Nair Hospital, where he identified the women to be his wife, who was dead as she has sustained serious injuries. The aforesaid reporting of the incident by Pradeep Nakhwa resulted into registration of C.R. No.378 of 2024 for the above mentioned offences on 07.07.2024.

3. Upon registration of the offence, the spot panchnama was drawn and the CCTV footages along the road were collected, which identified the car responsible for the accident to be of BMW company bearing No. MH 48 AK 4554. From the CCTV footage, it was revealed that the offending car proceeded in direction of Bandra from Sea link and therefore, a squad comprising of Police Inspector Chavhan K, and A.S.I. Suttar accompanied with others proceeded in the direction, and while they were proceeding to Kala Nagar, at the Kalanagar Junction Flyover, before the mount, they noticed the car in a broken condition. Two persons were standing near the car and even the towing van was also standing nearby. Accordingly, investigation officer seized said BMW Car on 07.07.2014, arrested accused nos.1 and 2 on 07.07.2024 and thereafter arrested present applicant/accused on 09.07.2024.

4. Now, by filing present applicant, Ld. Advocate for applicant submitted that applicant has purchased seized car from respondent no.2 Rajesh Doshi and said Rajesh Doshi has issued delivery note in favour of applicant on 18.05.2023. Applicant is no way concerned with alleged crime. Already, investigation is completed and chargesheet is filed. Respondent no.2 Rajesh Doshi has no objection to handover custody of said car to applicant. Applicant needs custody of said Car for his personal as well as business and family purpose. So, prayed to allow application. In support of his submissions, he placed his reliance on the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat [2003 Supreme Court Cases (Cri) 1943]** wherein Hon'ble Apex Court held/observed procedure for disposal of muddemal articles kept in police custody relates to pending trial.

5. Prosecution filed say received from PI of Worli police station as per Exh.31-A and admitted seizure of BMW Car no.MH-48-AK-4554 during investigation of present crime no.378 of 2024. However, according to APP, in case of handing over interim custody of seized car to applicant, there is possibility of destroy material evidence. Ld. APP during argument submitted that this is not the case of motor accident, but it is serious incident on account of which offence punishable under Section 105, 281, etc leveled against accused. It is also her submission that already bail application of present applicant not considered till the Hon'ble Supreme Court and he is in jail since 09.07.2024 because of serious allegations against him on account of his involvement alongwith other accused in commission of alleged incident. It is also submissions of Ld. APP that factual position of the vehicle in question is material aspect while deciding merit of main incident. In case of allowing present application, there is possibility of making change or destroy the factual position of the vehicle in question. It is also her submission that considering seriousness of alleged incident, vehicle in question is not within the scope of only vehicle, but it is one of the piece of evidence and not within the scope of only vehicle in commission of alleged incident. Considering all above aspect, prayed for application be rejected.

6. Respondent no.2 Rajesh Doshi also filed say vide Exh.31-B and made clear about he has no objection for handing over custody of sized car as prayed in application. Respondent nos.3 and 4 not filed any submissions in written form.

7. In the circumstances, considering submission from both the sides, I have gone through the entire charge-sheet i.e. investigation papers. Prima facie investigation papers shows that allegations against applicant/accused Mihir Shah is that on 07.07.2024, he drive the seized car i.e. BMW MH48AK4554 in high speed and the impact of it was so powerful that complainant Pradeep and deceased Kaveri i.e. husband and wife were lifted from the vehicle and hit the bonate and informant fell on the side way but his wife Kaveri fell in front and was caught in the front wheel and bumper of the car. Despite this the accused drive the car continuously with reckless speed dragging her from Ceejay House to Worli Sea Link T.Junction. Complainant Pradeep garnered all his courage and stood up and took note that fleeing white colour BMW car having number plate MH48AK4554. He chased the car but being the overweight he could not match its speed. Then he stopped another taxi on the road and boarded in the same in search of his wife and traveled a long distance but could not trace her. So, he approached Worli police station and while he was in the process of lodging the complaint, information was received on wireless that one unknown woman was found lying in an injured condition on the sea link and she was being taken to hospital. So, Pradeep along with the police reached at Nair hospital where he identified dead body of his wife Kaveri and he was sustained serious injuries. So, prima facie, considering the mode and manner of alleged incident and its consequences use of alleged vehicle is like weapon which resulted unfortunate death of Kaveri and therefore, circumstances compelled to invoke section 105, 281, etc of BNS against applicant/accused. Therefore, considering all above aspects, possibility of reuse/misuse of the seized vehicle car or destroy the material evidence relates the same cannot be ruled out. Therefore,

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considering the difference of the facts of the case in hand and facts in the case of **Sunderbail Ambalal Desai case** (cited supra), those observations are not helpful to the applicant. In other words, considering nature of alleged incident, role played by applicant/accused including its gravity and consequences, relief claimed by applicant is not considerable. Hence I pass following order:

ORDER

Application Exh.31 is hereby rejected.

(Anil D.Salunkhe)
Addl.Sessions Judge,
City Civil and Sessions Court,
For Greater Bombay

Date : 24.04.2026

Dictated on : 24.04.2026
Typed on : 24.04.2026
Checked on : 24.04.2026
Signed on : 24.04.2026

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“ CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED JUDGMENT/ORDER”

UPLOAD DATE AND TIME : 24.04.2026 at 12.53 p.m.

NAME OF STENOGRAPHER : Mrs. S. A. Shekade
Stenographer Gr. I

NAME OF THE JUDGE	HHJ SHRI.Anil D. Salunkhe (C.R.No.56)
Date of Pronouncement of Order	24.04.2026
Order signed by the PO. On	24.04.2026
Order uploaded on	24.04.2026