

**IN THE COURT OF METROPOLITAN MAGISTRATE
66TH COURT, ANDHERI, MUMBAI**

NOTICE NO. 1370/N/2019

IN

C.R. NO. 157 OF 2019

Umesh Shivpati Sharma

...Applicant

v/s.

The State (Amboli Police Station)

...Respondent

AND

People for the Ethical Treatment of
Animals (PETA), India an Animal Welfare
NGO

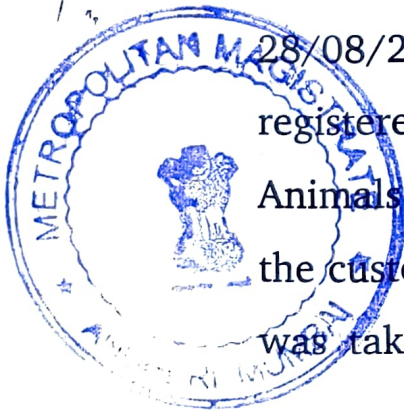
...Intervener

**ORDER BELOW APPLICATION FOR RETURN OF PROPERTY
i.e. COW:**

Read the application, say of the Amboli Police Station at Exh.4, objection of the intervener i.e. People for the Ethical Treatment of Animals (PETA India) an Animals Welfare NGO, documents filed with the application.

2. Heard Ld. Counsel for the applicant, Ld. APP and the Ld. Counsel for the intervener at length.

3. It reveals that the application is made by Umesh Sharma for return of the property i.e. Cow seized by the Amboli Police Station in C.R. No. 157 of 2019 dated 28/08/2019. It is his submission that crime against him was registered under the provision of Prevention of Cruelty to Animals Act and in view of that this Cow was seized and in the custody of the Amboli Police Station. Further state that it was taken away from his custody and sent to Government



Veterinary Hospital, Lower Parel, Mumbai for treatment. He said that now the Cow is well and needs to be discharged, being the owner of the Cow prayed for the custody and return the same.

4. The say of concern police station disclosed the fact of registration of crime against the applicant under sections 3, 7, 10, 13 of Maharashtra Keeping and Movement of Catal in Urban Area r/w section 11 (1) d, c, j of Prevention of Cruelty to Animals Act, 1960 and it was kept and handed over for safe custody with the Animals Hospital, Parel. Further they expressed their no objection to handover the Cow to the applicant.

5. The intervener People for the Ethical Treatment of Animals (PETA), India an Animals Welfare NGO raised objection for handing over the said Cow to the applicant as the applicant has committed offence of Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017, therefore in these circumstances if the animal i.e. the Cow handed over to the applicant it would be amounts to give provocation or assessing the applicant in committing the offence repeatedly. Further submit that the said cow be handover to the intervener for proper care and treatment as they are engaged for the same, at last prayed to reject the application.

6. Ld. APP argued that in view of settled position of law it is upto the Magistrate in the abovesaid circumstances to



direct the animal to be housed at an infirmary, pinjrapole, SPCA, Animal Welfare Organization or Gaushala during the pendency of the litigation. As the crime was registered against the accused, pending hearing of the trial of case it is not proper to return the said Cow to be owner.

7. The Ld. Counsel for the applicant argued that it is the applicant who is having love and affection towards the Cow and it is difficult for him to survive without cow. He is competent person and owner of the said Cow to take proper care and give proper attention to it. He is ready to abide any conditions and to take proper care and furnish proper certificate of the concern authority in respect of health of cow. She further argued that seized property if not returned nor it will amount to desertion of the owner from the love one and therefore, in these circumstances prayed to allow her prayer.

8. If considered the submission of Ld. Counsel for both the parties and the undisputed fact in respect of registration of crime against him for violation of the provision of the Prevention of Cruelty to Animals Act and the fact that at present the Cow is in the custody of the police and kept in the veterinary hospital wherein the applicant is claiming the custody of the Cow as well as intervener also claiming the Cow. In view of the settled position of law and the provisions enumerated in the Act if considered the health of the Cow, I am of view to handover the custody of the cow to the intervener till the decision of criminal case, because prima



facie crime was registered against the applicant and the trial is awaited it will take time to conclude. Though the applicant expressed to execute bond or abide by any conditions imposed by the court, the crime was registered against him for the offence punishable under the provisions of Prevention of Cruelty to Animals. In these circumstances, I am of view that the seized Cow be handed over to the intervener till the decision of the case. The expenses of the maintenance of the cow and cost of transportation to be beared by the intervener and keep the account of the same till the decision of the case. Accordingly I passed the following order:

ORDER

1. The prayer made by the applicant is hereby rejected.
2. The custody of Cow is given to the Intervener i.e. People for the Ethical Treatment of Animals (PETA), India an Animal Welfare NGO on the bond that they will take care of the Cow till the decision of the case.
3. The intervener has to execute the bond of Rs.20,000/- (Rupees Twenty Thousand) for a condition that they will return the Cow as per the final order of the Court, if required.
4. The intervener is directed to produce the Cow as and when required by the court.
5. The concern Investigating Officer is directed while handing over the custody of the Cow to the Intervener,



he take out photographs of the Cow and submit it before the court with chargesheet.

6. The intervener is allowed to transport the Cow to the Sanctuary maintained by it at Sangli, Maharashtra and directed to bear the expenses of maintenance and transportation of the Cow

Date : 05/11/2019



(R.M. Nerlikar)

Metropolitan Magistrate
66th Court, Andheri, Mumbai

TRUE COPY

Judicial Clerk
Metropolitan Magistrate
66th Court, Andheri, Mumbai

Application No	2026/19
Applied On	05/11/2019
Ready On	13/11/19
Delivered On	13/11/19
Amt Paid Rs	20/- (05 X 04)
Receipt No.	245868