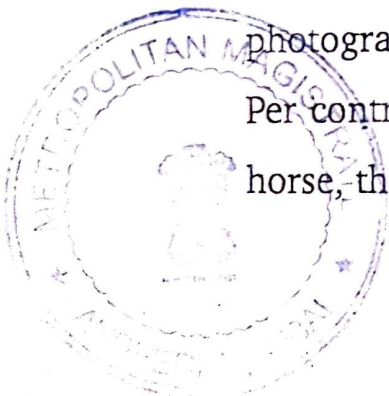


COMMON ORDER BELOW APPLICATIONS BEARING NOTICE
NOS.1831/N/2019 AND 1845/N/2019 FOR RETURN OF HORSE.

The application bearing no.1831/N/2019 came to be filed by An Animal Welfare NGO namely People for the Ethical Treatment of Animals (PETA) India, for custody of injured female horse involved in above mentioned crime in their custody. Conversely, accused Gaurishankar N. Shah filed application bearing no.1845/N/2019 for custody of said horse in his favour. Both the parties have resisted their respective claims by filing replies against each other. I have gone through the both applications, their replies, documents and report of Investigating Officer. I have heard Ld. Advocate Mr. Shivam Deshmukh for PETA and Ld. Advocate Mr. Nasir Patel for accused. The Ld. APP and I. O. remained absent for hearing.

2 Relying upon the judicial ratios passed by Hon'ble Bombay High Court in the case of – **Deorao Sadashiv Navghare Vs. State of Maharashtra & Ors., reported in 2009 SCC Online Bom 1801 and in PIL No.36/2011** the Ld. Advocate for PETA has requested for approval of his application. Additionally, he has furnished Government of Maharashtra resolutions dtd.09.11.2016 and 16.06.2017 in support of his claim. Additionally, he has placed certain orders of other Courts which are not having any binding effect, therefore, I ignored to refer them. He has filed various photographs to show the facilities which they availed for animals. Per contra, the accused has contended that he is the owner of the horse, therefore, it be handed over to him.



3 From the perusal of FIR and ingredients of both the applications, it is apparent that at the instance of PETA the said horse came to be seized by Police and was referred for treatment. The record transpire that due to timely action of PETA the said horse received immediate medical aid. As certain allegations are raised against accused in FIR and he himself quoted in his application that he was using the said horse for marriage and some other functions which itself contravene the directions in PIL and subsequent government resolutions. Comparing the facts of the both notices the claim of PETA appears to be at higher pedestal as compare to accused. As per certification of department of surgery and radiology Mumbai Veterinary College, Parel, the said horse is unfit to do any work which means that said horse need care and protection at least for a period of adjudication of trial against accused. As such in purview of judicial ratios relied upon by PETA and government resolutions I am satisfied to allow the custody of said horse to the PETA temporarily till adjudication of trial of case.

As there are certain allegations against accused alongwith proof of injuries to horse and medical certificates, therefore, in purview of rules of Act and judicial ratios, I am satisfied to turn down the application of accused. Hence, I am satisfied to pass following order -

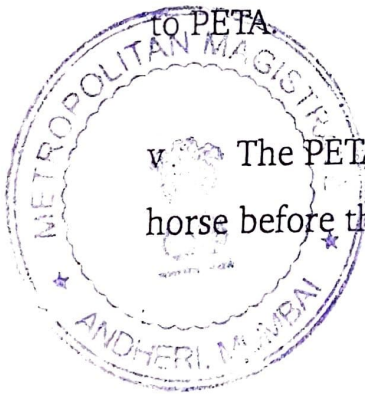
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20.1.

C. R. No.268/2019 of D. N. Nagar P. Stn.
U/Sec. 3, 11 of Cruelty to Animals Act.

ORDER

- i The application no.1831/N/2019 is allowed.
- ii The application no. 1845/N/2019 is rejected.
- iii The Investigating Officer is directed to hand over the custody of seized horse with PETA on execution of a bond of Rs.2,00,000/- on condition that PETA will take care of horse and will return the horse as per final order of the Court, if required. PETA shall produce the horse as and when required by this Court.
- iv The Investigating Officer shall snap the photographs of horse and prepare a detail Panchanama regarding handing over of horse to PETA.
- v The PETA shall file the status report alongwith photograph of horse before this Court after every three months.



Dt.20.01.2021.

CERTIFIED TRUE COPY
[Signature]
21/1/21
Judicial Clerk
Metropolitan Magistrate's
10th Court, Andheri, Mumbai

[Signature]
20.1.21
(R. R. Khan)
Metropolitan Magistrate,
10th Court, Andheri, Mumbai.

Application: 66/21
Applied for by: 20.1.21
Dated on: 21.1.21
Delivered on: 21.1.21

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