

IN THE COURT OF THE PRINCIPAL CITY CIVIL AND SESSIONS
JUDGE, AT BENGALURU

DATED THIS THE 28th DAY OF OCTOBER, 2019

PRESENT: SRI. SHIVASHANKAR B. AMARANNAVAR,
B.Com., LL.M.,
Principal City Civil and Sessions Judge, Bengaluru.

SPL.C.C.No.1054/2019
(Crime No.52/2019)

COMPLAINANT : **The State of Karnataka**
by Vijayanagara Police
Tumakuru.

[By Special Public Prosecutor]

Vs.

ACCUSED : **Ravi and others**

APPLICANT : **Zabiulla Khan**
S/o. Inayathulla Khan,
Aged 31 years,
1st Main, 4th Cross,
P H Colony,
Tumkur.

[By Sri. N Deenabandhu Rai, Advocate]

ORDER ON I.A. I

The applicant has filed this application u/Sec.451 and 457 of Cr.P.C., seeking release of the vehicle bearing No.KA-06/EN-1506 TVS Apache RTR for interim custody.

2. It is the case of the applicant that, complaint has been registered against the accused in Crime No.52/2019 of Vijayanagar Police Station, Bengaluru, for the offences u/Secs.365, 120(B), 146, 147, 341, 342, 384, 395, 307 R/w.149 of IPC and Secs.3 and 27 of Arms Act and Sec.3 of KCOC Act. It is the further case of the applicant that during the course of investigation, the police have seized the vehicle bearing No.KA-06/EN-1506 TVS Apache RTR and subjected it to PF No.35/2019 in item No.4. It is the further case of the applicant that the said vehicle is not required to the Police for any further investigation and the said vehicle is absolutely required to the applicant for his regular and *bona-fide* use. It is the further case of the applicant that the applicant is the owner of the said vehicle and he is entitled for possession of the same. The applicant is ready and willing to abide by the terms and conditions imposed by this court in the event of release of his vehicle. The applicant undertakes to produce the said vehicle before the court as and when directed to do so. With this, the applicant prayed to allow the application.

3. The learned Public Prosecutor has filed objections to I.A. No.I and contended that the application is not maintainable and charge-sheet has been filed in Crime No.52/2019 of Vijaynagar P.S., for the offences u/Secs.365, 120(B), 146, 147, 341, 342, 384,

395, 307 R/w.149 of IPC and Secs.3 and 27 of Arms Act and Sec.3 of KCOC Act. He has further contended that the accused have used the vehicle sought to be released for commission of the offence and in the event of its release to the interim custody of the applicant, there are chances of changing its colour and make and making it unidentifiable. He has further contended that the said vehicle is required for the purpose of identification for the trial. With this, he prayed to reject the application.

4. Heard the arguments of the learned Counsel appearing for the applicant and the learned Public Prosecutor.

5. The following point arises for my consideration;

“Whether the applicant has made out a case for release of vehicle bearing No.KA-06/EN-1506 TVS Apache RTR to his interim custody ?”

6. My answer to the above point is in the Affirmative, for the following;

REASONS

7. A case has been registered in Crime No.52/2019 of Vijaynagar Police Station, Bengaluru. After investigation, the charge-sheet has been filed for the offences u/Secs.365, 120(B),

146, 147, 341, 342, 384, 395, 307 R/w.149 of IPC and Secs.3 and 27 of Arms Act and Sec.3 of KCOC Act. The Police have seized the vehicle bearing No.KA-06/EN-1506 TVS Apache RTR and shown it at item No.4 in PF No.35/2019. The applicant has sought release of the said vehicle to his interim custody. The applicant is not an accused in the present case. The copy of Certificate of Registration Card produced along with application shows that the applicant is the registered owner of the said vehicle. The applicant has also produced the copy of his Aadhaar Card. The applicant is the registered owner of the said vehicle and therefore he is entitled for release of the said vehicle for his interim custody. The said vehicle is kept open to the sky and it will affect its value if it is continued to be kept there due to rain and sun. As the applicant is the registered owner of the said vehicle, he is entitled for release of the said vehicle for his interim custody with conditions. The apprehension of the prosecution that if the said vehicle is released to the interim custody of the applicant, he may change the colour and make it unidentifiable can be met with by imposing suitable conditions. The applicant has made out case for release of the said vehicle for his interim custody. Accordingly, I answer the point in the affirmative and pass the following;

ORDER

I.A. No.I filed u/Sec.451 and 457 of Cr.P.C., is allowed.

The vehicle bearing No.KA-06/EN-1506 TVS Apache RTR, subjected to Item No.4 in P.F.No.35/2019 is ordered to be released to the interim custody of the applicant on his executing the Indemnity Bond for a sum of Rs.75,000/- and furnish surety to the like-sum, subject to the following;

- 1. The applicant shall not change the colour or make of the said vehicle.*
- 2. The applicant has to produce the said vehicle whenever he is called to do so.*
- 3. The applicant shall not alienate or transfer the said vehicle.*
- 4. The applicant has to furnish his address in case of change of address.*

(Dictated to the Judgment Writer, transcribed and computerized by her, the same is corrected, signed and then pronounced by me in the open Court on this the 28th day of October, 2019).

(SHIVASHANKAR B. AMARANNAVAR)
Principal City Civil & Sessions Judge,
Bengaluru.

*pst/-