

ORDER ON APPLICATION U/SEC 451/457 OF
CR.P.C

This application is filed under the provisions of section 451/457 of Code of Criminal Procedure, 1973 for release of Auto Rickshaw bearing

Regn.No.KA-22/D-6850 seized and reported to the court under PF No.22/2022 dated 01.07.2022 in Udyambag P.S. Crime No.32/2022 registered for the offences punishable U/Sec. 143, 147, 148, 120(b), 109, 302 r/w section 149 IPC and under section 3(2)(v) of SC/ST (POA) Act 1989.

2. The factual matrix of the prosecution case, in brief are that:

The petitioner is registered owner of Auto Rickshaw bearing Regn.No.KA-22/D-6850 seized and reported to the Court under PF No.22/2022 dated 01.07.2022 in Udyambag P.S. Crime No.32/2022 by the Police. The said vehicle is required for day today use of the petitioner. If the said vehicle is kept idle, its engine would spoil due to rain, dust and moist. The investigation in relation to the said vehicle is already completed. On these grounds, it is prayed to release the aforesaid vehicle to the interim custody of the petitioner.

3. In response to the service of notice, the learned Special Public Prosecutor who is representing the State has filed his objections and opposed for the release of the aforesaid vehicle on the ground that, it is used in the commission of

crime and it is required for identification during the course of trial.

4. Now, the points that arise for my consideration are as under;

(i) Whether the petitioner is entitled to the interim custody of the seized vehicle?

(ii) To what order?

5. Heard both sides.

6. My finding to the above points are as under:

Point No.(i): ***In the Affirmative.***

Point No.(ii): As per the final order passed below for the following:

REASONS

7. **Point No.(i):**

Undisputedly, this petitioner is registered owner of Auto Rickshaw bearing Regn.No.KA-22/D-6850 seized and reported to the Court under PF No.22/2022 dated 01.07.2022 in Udyambag P.S. Crime No.32/2022 by the police. The original Certificate of Registration (card) in respect of the aforesaid vehicle is also produced and it stands in the name of this petitioner. It is true that, this vehicle is involved in this crime and it is required

for identification during the course of trial. Merely for this purpose, if the said vehicle is kept idle in the Police Station, it will spoil due to rain, dust and moist. The petitioner requires the said vehicle for his day today use. The said vehicle can be identified during the course of trial by producing its photos. Hence, I am of the considered opinion that, the petitioner is entitled to the interim custody of the seized said vehicle. Accordingly, the point No. (i) framed herein above is answered ***in the affirmative*** in favour of the petitioner.

8. Point No.(ii):

In view of my finding given on point No.(i) and for the reasons discussed herein above paragraphs, I proceed to pass the following:

ORDER

The application filed under section 451/457 of Code of Criminal Procedure, 1973 is hereby allowed.

It is hereby ordered that, the Auto Rickshaw bearing Regn.No.KA-22/D-6850 which is seized and reported to the Court under PF No.22/2022 dated 01.07.2022 in Udyambag P.S. Crime No.32/2022 shall be released to the interim custody of the

petitioner on his execution of indemnity bond in a sum of Rs.3,50,000/- along with one surety for like sum under the following:

CONDITIONS

- 1) The investigation officer is directed to take colour photographs of the seized Auto Rickshaw from all side and produce before the court along with CD with necessary certificate as required U/Sec. 65(B) of Indian Evidence Act with the expenses of the petitioner.
- 2) The petitioner shall produce the said Auto Rickshaw as and when he is directed to do so.
- 3) The petitioner shall not alienate or change the colour, shape and mode of the said Auto Rickshaw.
- 4) The investigation officer shall draw release panchanama while releasing the Auto Rickshaw and the same as to be produce before this court.

Issue intimation to the I.O., to allow the petitioner to take photographs of the Auto Rickshaw and put his endorsement with signature on the said photos.

**III Addl. District & Sessions Judge,
Belagavi.**