

**ORDER ON APPLICATION U/Sec.451 and 457 Cr.P.C.**

Applicant by name Mohammed Irfan S/o Mohammed Ghouse has filed this application seeking interim custody of vehicle bearing registration No. KA-06-HB-9672, which was seized by the Dabaspur police and reported in P.F.No.194/2024. This applicant is the father of accused No.1.

2. It is stated in the application that, the seized motor bike is no more required by police for any further investigation purpose, for which required by petitioner for his family members daily use. If this application is not allowed the petitioner would be put to great hardship and injury. Hence prays to allow the application.

3. On the other hand, the learned P.P. filed objection stating that if vehicle released to the interim custody of the applicant, he may transfer, alienate or change the colour, nature of the property. Hence prayed reject the application.

4. Heard both side. Upon hearing the argument and on perusal of materials placed on record, the following points arise for consideration.

1. Whether the application filed under Sec.451 and 457 of Cr.P.C. by the claimant is fit to be allowed?

2. What order?

5. My findings to the above points are as under:

**POINT No.1:** In Affirmative.

**POINT No.2:** As per order for the following:

**REASONS**

**6.Point No.1:** On perusal of the prosecution papers, it is seen that a case has been registered in Cr. No.259/2024 against the accused, by Dabaspur Police, for the offences punishable U/Sec. 309(4), 309(6) of BNS and after filing charge sheet this case was committed to this court for trial.

7. On gone through the record it appears that, the applicant has produced RC in order to showing his absolute ownership pertaining to

seized motor bike. Further there is no rival claimants appeared to claim ownership of the vehicle. Further, if the vehicle is retained at police station, there is no protection, parts are non functionable and also it will be rusted, under such circumstance the more loss will cause to the applicant, such loss will not be full fill by police authority either through money or any other mode. In this regard, it is useful to refer the ratio laid down by Hon'ble Supreme Court of India in 2002(8) Supreme 525 (Sunderlal Ambalal Desai V/s. State of Gujarat), which reads thus:

*The procedure of disposal of seized articles and currency notes, vehicles seized liquor and Narcotics, drugs suggested. Further Magistrate directed to pass appropriate orders immediately and articles are not kept for a long time at the Police Station, in any case for not more than 15 days to one month "In this case cited, disposal of the property pending trial, no use what-ever being the situation, it is of no use of keeping such seized vehicles at the police stations for a long period, it is for the Magistrate to pass appropriate orders immediately, taking appropriate bond and guarantee as well as security for the said vehicle required at any point of time".*

In the light principles enunciated in this decision, in my considered opinion, application deserves to be allowed. Accordingly, I answer Point No. 1 in the **Affirmative**.

**08.Point No. 2:** For the aforesaid reasons, I proceed to pass the following

**-: O R D E R :-**

The application filed by applicant U/Sec.451 and 457 of Cr.P.C is hereby allowed.

The vehicle bearing Reg. No.KA-06-HB-9672 which is seized under P.F.No.194/2024 is ordered to be released in favour of the claimant namely Mohammed Irfan S/o Mohammed Ghouse with following:.

**CONDITIONS**

- 1).The claimant shall execute indemnity bond for Rs.1,00,000/-and one surety for like sum.

- 2).The claimant shall not alienate the said vehicle in whatsoever manner till the pending disposal of the case.
- 3).The claimant shall not change the identity of the said vehicle and shall produce before this Court as and when directed.
- 4).The I.O. is hereby directed to take the photographs of the said vehicle in different angles at the cost of petitioner and produce the same before this Court.

IX ADJ,  
Bengaluru (R.) District,  
Bengaluru