

**ORDER ON APPLICATION FILED U/SEC.457 of CR.P.C.**

This application is filed under the provision stated above by the accused No.1 for interim custody of vehicle bearing Reg.No.KA-16-AA-0348, Ashok Leyland, Model-Dost. Learned Public Prosecutor has filed objections in writing. Now the following points would arise for my consideration:

1. *Whether the applicant/accused No.1 is entitled for interim custody of vehicle mentioned above?*
2. *What Order?*

2. I have heard the arguments of Sri BKF Advocate for the applicant and learned Public Prosecutor for the State and having gone through the case file, my findings to the above points are as under :-

Point No.1 – In the Affirmative

Point No.2- As per below

for the following:

**REASONS**

3. **Point No.1:** In the case in hand accusing that the accused No.1 has committed the offences punishable U/Ss.376, 302, 201 of IPC and the accused No.2 and 3 have committed the offence punishable U/Sec.201 R/w 34 of IPC, Chitradurga Women Police Station have charge sheeted the accused No.1 to 3 and the trial has not yet commenced. In the course of investigation, on the reason that the Ashok Leyland Vehicle bearing Reg.No.KA-16-AA-0348 was used by the accused No.1 in commission of the offences, the investigation officer seized it under mahazar and reported the seizure vide PF No.119/2023 dated 13.10.2023, as such the said vehicle is in the court custody.

4. Now through the application in hand, the accused No.1 submits that since he is the owner of the said vehicle, it has to be released in his favour and he is ready to produce the same as and when court directs and further that he would not change its colour or shape etc., he prays to release the same as an interim custody.

5. On the other hand the prosecution objects for release of it stating that the accused No.1 may change its colour and shape or he may alienate and thereby hamper the trial.

6. In this regard being aware of the time that would be consumed for trial of the accused No.1 to 3 and also considering the nature of allegations made against the accused No.1 and others as well as the alleged role of that vehicle in the commission of crime, in my view prayer of the accused No.1 cannot be discarded. In the decision reported at Sundarbai Ambalal Desai V/s State of Gujrat reported at AIR 2003 SC 638 the Hon'ble Supreme Court has guided the Trial Courts in disposing of the properties that would be seized by the investigation officers in the course of trial.

7. In the case in hand, if the said vehicle is kept open to the sky, air and light, that too without any use for too many days, certainly it will lose its mechanical value and it would be unfit to drive. Moreover decaying of that vehicle by keeping it idle cannot be ruled out. The apprehensions of the prosecution can be taken care of by imposing necessary conditions.

8. That by producing the photo copies of his Aadhaar Card, RC and insurance of the vehicle, the

accused No.1 has shown that he is prima-facie owner of the said vehicle and is entitled for interim custody of the same. Hence I answer this point in the affirmative.

9. **Point No.2**: In view of my above finding I proceed to make the following:

**ORDER**

The application filed U/Sec.457 of Cr.P.C. for interim custody of Ashok Leyland vehicle bearing Reg.No.KA-16-AA-0348, seized and reported vide PF No.119/2023 dated 13.10.2023 is released in favour of the accused No.1 for his interim custody on his executing indemnity bond in a sum of Rs.4,00,000/- with one surety for the like sum and subject to following conditions:

1. The accused No.1 shall produce the said vehicle as and when court directs.
2. The accused No.1 shall not change its colour except for repair to the extent required.
3. The accused No.1 shall not alienate the said vehicle in any form, until final disposal of this case.
4. The accused No.1 shall produce the GPS photographs of the said vehicle either with their CD or negative with endorsement of the concerned police on the back of the photographs towards their authenticity.

Prl District & Sessions Judge,  
Chitradurga

