

**COMMON ORDER ON APPLICATIONS FILED**  
**U/S 457 OF Cr.P.C.**

The applicant No.1 by name Shankareppa, S/o. Bheemasha, R/o: Bhagodi, Tq: Chittapur has filed application U/s 457 of Cr.P.C. for interim custody of his vehicle Trailer bearing No.KA-32/T-7366 and applicant No.2 by name Karabasappa, S/o. Tippanna, R/o. Benkanhalli, Tq: Sedam has filed application U/s 457 of Cr.P.C. for interim custody of his vehicle Tractor bearing No.KA-32/TA-5140.

2. The applicants stated that, they are the owners of above said vehicles are seized by Madabool police. The petitioners being the RC owners of the said vehicles are in need of vehicles for their day-to-day business and agricultural use and if the seized vehicles are kept idle, the parts of the vehicles will become damage and it will cause loss to the petitioners. It is stated that, the petitioners are ready to furnish the sufficient surety to the satisfaction of the Court and petitioners will abide the conditions which are imposed on them and prays to allow the petitions.
3. The learned APP has filed objections to the claim petitions. he submits that, the investigation officer has caught hold the accused persons and said vehicles while transporting the sand in the vehicles without any valid permit and without payment of royalty. The accused have committed the theft of sand and transported the same in their vehicles. It is stated that still investigation is pending, and the seized vehicles are used for committing the offence of illegal transportation and theft of sand. The seized vehicles are liable to be confiscated to

the State. If the vehicle is released, the claimant/applicant may hamper the investigation and may not produce the vehicle as and when ordered. Hence, he prays for rejecting the application.

4. Heard both the sides.
5. The brief points which arise for my consideration are :-
  1. *Whether the applications filed U/s.457 Cr.P.C. are deserve to be allowed?*
  2. *What order?*
6. My answers to the above points are under :-

Point No.1 : In the affirmative

Point No.2 : As per final order for the following :-

#### **REASONS**

7. **Point No.1:** The applicants/claimants have filed these applications for interim custody of their respective vehicles seized by the Madabool police. From perusal of the report of PSI and other connected case papers, it is observed that the Madabool police have registered case against the accused persons for the offence punishable U/s.379 of IPC. It is case of prosecution that, on 12.06.2015 at about 1:30 p.m. the PSI of Madabool PS has received credible information of transportation of sand from Kagina River, Near Katamdevarahalli. Thereafter, he immediately rushed to the spot along with his staff and found that accused transporting the sand in their vehicles. They have searched the said tractors and found that, the accused persons are transporting the sand without

any permit. Thereafter they have seized the said vehicles and arrested the accused persons and also registered case against them. The police have filed PF regarding the seized vehicles.

8. It is seen from the records that, in this case the owners of the seized vehicles have filed vehicle release applications before this court and thereafter this court has passed the order rejecting the said applications on 25.07.2015. Thereafter, the applicants have filed Criminal Revision Petition No.77/2015 & Cr.Rev. Petition No.72/2015 before the Hon'ble Session court Gulbarga against the orders of this court. The Hon'ble Session court has set aside the orders of this court and allowed the revision petitions for release of vehicles to the interim custody of applicants. At this stage the applicants, come up with these applications on the ground that, the Hon'ble Session court has released vehicles already seized in this case and now the investigation is completed and I.O. has filed charge sheet along with the additional P.F. with respect to the seized vehicles and prayed for release of the vehicles for their interim custody.

9. I have perused the orders of Hon'ble Sessions Court. The Hon'ble court has released the vehicles of applicants for the interim custody and thereafter applicants have moved the present petition for release of their vehicles. I have gone through the documents and order of Hon'ble Sessions court. In the present case, the Hon'ble Sessions Court, Gulbarga has discussed the matter in detail and thereafter

released the vehicles to the interim custody of applicants. Further after passing the order by the Hon'ble Sessions, Court again the police have filed PF before this court. Hence, I am of the opinion that, this court need not go into the merits of the case again. Therefore, the applications filed by the petitioners are deserve to be allowed. Accordingly, I answer point No.1 in affirmative.

10. **Point No.2** : For the foregoing reasons, I proceed to pass the following :-

**ORDER**

The applications filed by the applicants U/s.457 Cr.P.C. are hereby allowed.

It is ordered to release the seized vehicles to the interim custody of the applicants/claimants as follows with the following conditions;

1. Shankareppa, S/o. Bheemasha, R/o: Bhagodi, Tq: Chittapur vehicle Trailer bearing No.KA-32/T-7366.
2. Karabasappa, S/o. Tippanna, R/o. Benkanhalli, Tq: Sedam vehicle Tractor bearing No.KA-32/TA-5140.

**Conditions**

1. The applicants shall execute I/B for Rs.5,00,000/- with a surety of like sum.
2. The applicants shall not change the colour or model of the said vehicle till disposal of the case.
3. The applicants shall not alienate the said vehicle till disposal of the case.
4. The applicants shall produce the said vehicle before the court whenever called for.

5. Further the I.O. is directed to obtain necessary photographs of the said vehicle from all angles at the cost of the applicant and to submit the photographs at the time of filing the Final Report.

For Surety call on : 22.01.2016.

**J.M.F.C., Chittapur**