

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC
AT JEWARGI

Present:- Sri. Sandeep. A. Naik B.A.,LL.B.,(Spl)
Senior Civil Judge & JMFC
Jewargi.

C.C.No.84/2023

Dated: This 08th Day of January-2025

COMPLAINANT: **State by Jewargi PS**

// Versus //

ACCUSED : **Kamalesh and Others**

APPLICANT : Mujeeb S/o Abdul Kyayum Sirwal,
Age: 39 years,
R/o Ijeri Near Govt. School, Ijeri,
Tq: Jewargi, Dist: Kalaburagi.

.....(By Sri.K.S.M., Advocate)

ORDERS ON APPLICATION FILED U/SEC. 457 OF CR.P.C. BY
THE APPLICANT

1. Applicant namely Mujeeb S/o Abdul Kyayum has filed this application for interim custody of vehicle bearing Reg.No.KA-32-TB-4855. The claimant claims to be the owner of said vehicle and said vehicle is seized under crime No.167/2022 registered for the offence punishable U/Sec.3 and 7 of E.C.Act. The applicant arrayed as accused No.3. The petitioner is need of the said vehicle for his day today, family and personal use purposes. If the vehicle is not released its parts and machinery will be damaged, if release the vehicle no prejudice will be cause

to the other side. The petitioner submits that if the aforesaid vehicle lie in the premises of the police station or in the custody of police there will be chances of damage to the vehicle if not operated for a very long time. The vehicle has no connection with the commission of the offence. There is no show cause notice issued U/Sec.6A & 6B of Essential Commodities Act. The Hon'ble court has jurisdiction to release the seized vehicle which is held by Hon'ble High Court of Karnataka in Criminal Petition No.671/2010 decided on 21-11-2013. Wherein it was held that keeping the vehicle idle no purpose will be served. That, the applicant submit that, he is ready to give the bond as directed by this Hon'ble Court and he is ready to abide the terms and conditions if any imposed by this Hon'ble Court. Therefore the applicant prayed for release of the said vehicle.

2. Learned A.P.P., filed written objections to the said application contending that, the Jewargi police have registered a case against the accused persons for the offenses punishable U/Sec.3 and 7 E.C.Act and police have seized the vehicle No.KA-32-TB-4855. The reasons and grounds mentioned in the application are not believable and deserve to be dismissed. If the interim custody of the vehicle is given to the custody of the applicant he may alienate or transfer the same infavour of others. The applicant has not produced documents in order to show his ownership over said vehicle. If the vehicle is released infavour of the applicant he may not produce the vehicle whenever required and may take away the vehicle beyond the jurisdiction of this Hon'ble court. Further the seized vehicle produced before Deputy Commissioner, Kalaburagi as such this court has no jurisdiction as such cannot release the vehicle. On all these grounds the learned A.P.P. prayed to reject the application.

3. The learned counsel for the applicant argued that this court has got ample powers to grant interim custody of the vehicle and prayed to allow the application.

4. Per contra, learned APP appearing for the prosecution vehemently argued that this court has no Jurisdiction to entrain the application since there is a bar under the amended proviso of Essential commodities Act. Therefore she prayed to reject the application.

5. The points that would arise for my consideration are as under;

1. Whether the Application filed by the applicant U/Sec.457 of Cr.P.C., is deserve to be allowed and whether the applicant is entitled for the interim custody of vehicles?
2. What order?

6. My answer to the above points is under:

Point No.1 : In the Affirmative.

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

REASONS

7. **POINT NO:1** From the careful perusal of the materials placed on record, it is noticed that Jewargi Police have seized the vehicle bearing Reg.No.KA-32-TB-4855, and reported the same to the court. The applicant is seeking the interim custody of vehicle seized in the present case. However it is necessary to mention here that applicant is the RC owner of the vehicle. The applicant has produced RC, copy of Aadhar card. The particulars and details of the said vehicle tallies with the

details and particular furnished by the police regarding the seized vehicle. The applicant has also produced R.C. card. On perusal of the same, it is clear that the claimant is the owner of the said vehicle seized in the present case. The documents placed on record clearly shows that the claimant is the owner of the said vehicle and is entitled to the interim custody of the vehicle. Even in the decision of **Sunderbhai Ambalal Desai v. State of Gujarat, reported in AIR 2003 SC 638 Ambalal Desai Vs State of Gujarat** wherein it was held that *power under Section 451 of the Code should be exercised expeditiously and judiciously.*

8. No third party has claimed the property in question. Therefore apprehension of the prosecution can be safely ruled out by imposing stringent conditions on the applicant. However it is appropriate to grant interim custody of the vehicle to the petitioner by imposing some conditions which will meet the ends of justice. Hence, the application filed U/Sec.457 of Cr.P.C., is deserves to be allowed and the claimant is entitled to the interim custody of the vehicle. Hence, I am of the view that application filed by the applicant is deserves to be allowed subject to conditions. Hence, *I answer point under consideration in the Affirmative.*

9. **Point No.2:** I proceed to pass the following;

ORDER

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

The vehicle- bearing Reg. No. KA-32-TB-4855, is ordered to be given to the interim custody of the claimant on executing an indemnity bond for

Rs.3,00,000/-with two sureties for like sum one of whom must be an Government servant and subject to following conditions.

Conditions;

1. The claimant shall produce the photographs of the vehicle before the investigating officer and the investigating officer and claimant shall countersign on the photographs. The photographs shall be produced before Court as and when require.
2. The claimant shall not change the nature, colour, and model of the vehicle and shall not alienate the vehicle without the permission of the court.
3. The claimant shall produce the vehicle before the investigating officer and before the Court as and when necessary.
4. The office is hereby directed to send the intimation regarding non-alienation condition over the seized vehicle till disposal of the case to the concerned registering authority.(RTO).
5. The claimant shall specifically under take that it will identify the rival claim if any put forth in future in respect of the said property and further under take that it will produce the said vehicle before this court as well as before the District Commissioner, Kalaburagi.

Call on for compliance and await summons by 10-03-2025.

(Dictated to the stenographer directly on the computer, corrected by me, signed and then pronounced in the open court on this the 8th day of January-2025)

(SANDEEP A. NAIK)
Senior Civil Judge & JMFC,
Jewargi.