



**IN THE COURT OF THE I ADDL. DISTRICT AND  
SESSIONS JUDGE, KODAGU AT MADIKERI.**

**-:PRESENT:-**

**SMT. MAMTAZ, M.A.LL.B,PGDCA  
I Addl.District & Sessions Judge,  
Kodagu-Madikeri.**

**Dated this the 2<sup>nd</sup> day of July, 2026**

**CRL.MISC.No: 214/2026**

**PETITIONER/S:-**

Musthafa P.I.  
S/o Ibrahim,  
Aged 49 years,  
No.2 Ground Flr, Prakruthi Lyt  
Kalyanagar Sub Post Ofc.  
1<sup>st</sup> blk 6<sup>th</sup> Crs  
Hormavu Agara Mn Rd  
Bangalore 560043.

Permanent Resident of  
Convent Road,  
No.2/80, Choudlu village,  
Somwarpet Taluk,  
Kodagu District.

(By **Sri. A.G.Giri.,**  
**Advocate**)

**-VS-**

**RESPONDENT/S:-**

**The State of Karnataka,  
by Somwarpet Police Station**

(By learned **Public Prosecutor,**  
**Madikeri**)

## **ORDERS**

This petition is filed by the Petitioner Under Sections 497 and 503 of B.N.S.S, 2023, praying this Court to release the Vehicle i.e. Electric Car bearing Reg. No. KA-01-NB-2415 which was seized in Cr.No.44/2025 of Somwarpete Police Station on the file of Civil Judge and JMFC Court Somwarpete and subjected to Item No.1 in P.F.No. 64/2025 to his interim custody.

2. It has been contended in the petition that, the Petitioner is the registered Owner of the said Electric car bearing Reg. No. KA-01-NB-2415 and the registration certificate stands in his name. The Somwarpet police have registered a case for the offences p/u/Sec. 238(a), 249(a) r/w sec. 3(5), 61(2)(a), 103(1) of BNS 2023. He is the lawful custodian of the said electrical car bearing Reg. No. KA-01-NB-2415. The petitioner further contends that if the said vehicle is kept in the open space without any shade and shelter, it will subject to rust and will become useless to be used in a motorable road. He is ready to execute an indemnity bond for the release of the same. He will ready to abide by any condition imposed at

the time of releasing the same. In this background, the Petitioner prayed for allowing the petition.

3. The learned Public Prosecutor has filed objections opposing to release the seized vehicle. In the said objection, it has been contended that the petition is not maintainable either in law or on facts. The said vehicle was used for committing the offence p/u/s.238(a), 249(a) r/w sec. 3(5),61(2)(a),103(1) of BNS 2023. If the said vehicle is released, there will be a chances of tampering the vehicle and also change the appearance of the said vehicle. In that event, the prosecution witnesses will not be able to identify the vehicle during trial. It has been further contended that the petitioner may not produce the vehicle before the court during the trial. In that event, the trial will be hampered. There are no justifiable reasons to release the vehicle. Hence, he prays for dismissal of the petition.

4. Heard the counsel for the Petitioner and the learned Public Prosecutor.

5. Heard and perused the materials available on record. The following points arise for consideration.

**-.: POINTS :-**

1. Whether the Petitioner is entitled for interim custody of electrical car bearing Reg. No. KA-01-NB-2415?

2. What Order?

6. For the reasons stated hereinafter, my findings on the above points are as follows:-

Point No. 1 – In the ***“Affirmative”***;

Point No. 2 – As per the final Order,  
for the following:-

**-.: R E A S O N S :-**

7. **Point No. 1:** On a perusal of the copy of R.C.it appears that, the petitioner is the R.C. owner of the said seized electrical car bearing Reg. No. KA-01-NB-2415. On perusal of the records, it appears that Somwarpet police have seized the said the vehicle in connection with the Cr. No.80/2025 and subjected to P.F.No. 64/2025. It is the case of the petitioner that, if the vehicle is kept in the police custody, it will get rusted and the vehicle would become unfit for use and its engine and spare parts will be deteriorated and it will be unworthy to use.

8. In a catena of decisions, the Hon'ble Supreme Court, our Hon'ble High Court and other Hon'ble High Courts have held that if the vehicles are kept in the police custody without plying, there is every chance or likelihood of the said vehicle getting rusted and engine parts may also get deteriorated. The constant exposure of the vehicle to the natural elements adversely affects its condition.

9. The Hon'ble Supreme Court has held in the case of **Sundarbhai Ambalal Desai – V/s - State of Gujarat** reported in **AIR 2003 SC 638**, as under:-

**“Whatever be the situation, it is of no use to keep a seized vehicle at the Police Station for a long period and the Magistrate should pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicle, if required any point of time. The Court further observed that keeping the seized vehicle at the Police Station for a prolonged period will cause unnecessarily damage and loss of the property. Accepting this view of apex Court, this Court also held in a case of Sulochana Swain and Jaswant Porwal [Supra] that a vehicle seized in connection**

**with a criminal case should be released preferably in favour of the registered owner after obtaining proper bond, security, undertaking etc., in order to save the seized vehicle from waste and damage.”**

10. Further, our Hon’ble High Court, in the case of **Ganapathy – V/s - State of Karnataka** reported in **ILR 2002 KAR 3751**, has held as under:

**“Where the property seized has an evidentiary value it is to be kept intact and to ensure production during trial for the purpose of marking as a material object, the condition of non-alienation is imposed. But with the advance Technology and in the context of changed times, receipt of secondary evidence is permitted in law, movable property of any nature can be subject matter of photography and taking photographs of all features of the property is not impossible. Mahazar also could be drawn clearly describing the features of property, the subject matter of trial, archaic and onerous conditions act harshly upon the rightful owner.**

**Section 452 Cr.P.C., while passing the final orders value of the property becomes prime concern for the Court. Bonds and security can be taken from the person in whose favour interim custody is given to safeguard the interest of the person ultimately held entitled to the property. In order to ensure recovery of its value, Trial Court shall take necessary and diligent steps to get the market value of the property assessed. Photographs of the property taken depicting all its features and dimensions before delivery of property to interim custody, the photographs certified by Magistrate, further necessary bonds and security to be taken to ensure prompt recovery of value from person to whom interim custody is given..... Having once given the interim custody to the person who is supposed to be owner of the property, depriving him to effectively use and exercise lawful ownership rights would be unlawful.”**

11. In view of the principles laid down in the aforesaid decisions, it is necessary to pass an Order to release the vehicle to the interim custody of the registered Owner, in order to prevent waste and damage being caused to the vehicle.

12. In view of the principles laid down in the aforesaid decisions, I feel it is just and proper to pass an Order to release the vehicle to the interim custody of the registered R.C. owner in order to prevent waste and damage being caused to the vehicle. In the instant case, the petitioner is the R.C. owner of the electrical car bearing Reg. No. KA-01-NB-2415/2025 as could be seen from the copy of Certificate of Registration.

13. Further, the petitioner has also produced the Copy of the Insurance Policy to establish that he is the owner of the said phone. Hence, there are no rival claimants. The petitioner has undertaken to produce the vehicle as and when required by the police or Court and he is also ready and willing to abide by any conditions that may be imposed by this Court. The main apprehension of the prosecution that, if the vehicle is released, there will be a chance of changing the nature of the vehicle and the petitioner may alienate or transfer the vehicle to any other persons. Such apprehensions can be cured by imposing conditions. For these reasons, I am of the opinion that, there are valid reasons to release the vehicle phone to the interim custody

of the petitioner subject to stringent conditions. Hence, I answer this point in the “Affirmative”.

14. **Point No.2**: For the reasons stated in the above point and reasons thereon, I proceed to pass the following:-

**: ORDER :-**

The petition filed by the Petitioner under Section **497 and 503 of B.N.S.S, 2023.**, is hereby allowed.

Accordingly, vehicle i.e., **electrical car bearing Reg. No. KA-01-NB-2415/2025** which is seized by **Somwarpet Police Station in Cr.No. 44/2025** on the file of **Addl Civil Judge (Jr.Dn) and JMFC Court, Somwarpete** subjected in **P.F.No. 64/2025**, is ordered to be released to the interim custody of the Petitioner, subject to the following conditions:-

1. The Petitioner shall execute a personal bond and indemnity bond for Rs. **3,00,000/- (Rupees Three Lakhs only)** along with one surety for the like sum to the satisfaction of this Court.

2. He shall produce the Photographs of himself and surety along with address proof.

3. The Investigating Officer shall take Photographs of the vehicle from different angles along with the Petitioner, at his cost and produce the same, at the time of handing over the vehicle to his interim custody.

4. He shall not change the nature of the vehicle and its colour and he shall not alienate the vehicle pending disposal of the case.

5. He shall not indulge or use the said vehicle for any criminal activities.

6. He shall not change the engine as well as chassis number of that vehicle

(Dictated to the Stenographer Grade-III, directly on the Computer, corrected, signed and then pronounced by me in the open Court, dated this the **2<sup>nd</sup>** day of **July 2026**).

**sd/xxx**  
**(MAMTAZ)**

I Addl. District and Sessions Judge,  
Kodagu-Madikeri.