

ON THE APPLICATION FILED UNDER SECTION

451 & 457 OF Cr.P.C.,

The applicant K.A.Nataraj S/o. K.Aswathappa has filed this application under Section 451 & 457 of Cr.P.C., seeking interim custody of Suzuki Access 125 two wheeler bearing Reg.No. KA-07-Y-9115, which is subject matter of PF No.85/2023, dated 10.11.2023 on the file of complainant Kolar Town Police Station, claiming himself as RC owner of the said vehicle and on the ground that he required the above vehicle for his livelihood.

2) Learned Public Prosecutor has filed detailed objection opposing the above application by contending that complainant police have registered the case on hand for the offences punishable under Sections 302, 363 read with 34 of IPC and during investigation seized the above vehicle and subjected the same to PF No.85/2023 and if the vehicle is

released to the interim custody of the applicant, he may not produce the same before the Court during trial and he may alienate the same and may change the identity of the vehicle and the vehicle is required for identification purpose during the trial by the prosecution witnesses and hence, prays to dismiss the application.

3) Heard the arguments of both sides and perused the records.

4) The applicant seek interim custody of the above vehicle claiming that he is the RC owner of his vehicle. Applicant has produced copies of registration certificate and insurance policy of the vehicle in question, which disclose that the applicant is the RC owner of the vehicle in question and insurance to the said vehicle is in force as on today. The vehicle in question is alleged to have

been used for committing the offence by the accused persons. The applicant is not the accused in the present case. Besides, there are no rival claimants. The I.O., has filed report stating no objection to release the vehicle to RC owner, as the same are not required for investigation purpose. It is not in dispute that the said vehicle is parked in the premises of complainant police station in the open space. If the vehicle is not released and let it be in open space, the vehicle will be deteriorated due to natural calamities like sun light, air and rain, in which eventuality the value of the said vehicle may subside. The nature of vehicle in question required regular maintenance. The apprehension of the prosecution with regard to the applicant alienating the vehicle, changing the nature and colour of the vehicles, not producing the same during trial etc., can be met with by imposing

suitable conditions. Besides as per the decision of Hon'ble Apex Court in case of **Sundar Bhai Ambalal Desai vs. State of Gujarath reported in 2003 KAR 2243**, any property including vehicles shall not be allowed to station in the premises of police station or Court. As such, the prayer of applicants, in whose names the registration certificate of the vehicles in question stands, for release of vehicles to their interim custody, to be accorded and I proceed to pass the following:

ORDER

The application filed by the applicant under Section 451 and 457 of Cr.P.C., is allowed.

The Suzuki Access 125 two wheeler bearing Reg.No.KA.07-Y-9115 , which is subject matter of PF No.85/2023 on the file of Kolar Town Police Station, is ordered to be released to the interim

custody of the applicant, on proper identification, subject to following conditions:

1. The applicant shall execute indemnity bond for a sum of Rs.1,00,000/- with one surety for the likesum.
2. The applicant shall not alienate or transfer his vehicle to any third party or create any third party interest thereon till disposal of this case.
3. The applicant shall not change the nature and colour of his vehicle.
4. The applicant shall produce the vehicle before the Court as and when required.
5. Concerned I.O./SHO to release the vehicle in favour of the applicant by taking photos of the vehicles from all four sides depicting its engine and chassis number.

PRL. SESSIONS JUDGE, KOLAR.

S.C.63/2024