

**ORDER ON THE APPLICATION FILED U/Sec. 457
OF Cr.P.C.**

The applicant Rafiq S/o Ibrahim has come up with this application stating that he is the owner of Suzuki Motor Cycle bearing reg No.KA55 EA2839, Chassis No.MB8DP11AGK8E57653, Engine No.AF216097961, which stands in his name.

2. The complainant police have registered a case against the accused for the offence punishable U/s 302 of IPC, in Crime No.203/2020 and filed charge sheet against the accused in CC.No.1233/2021. The police have sized the above said vehicle in the said crime number and which is in the custody of the complainant police. The said vehicle is parked in front of the police station without

any shelter. The police subjected the said vehicle to PF.No.161/2020 dated 18/12/2020 and PR.No.162/2021.

3. He is not involved in the said crime and his vehicle is in no way connected to the said crime number. The said vehicle which is parked in front of the police station has been deteriorating due to air, sun and rain. He is in need of the above said vehicle for his daily use. If it is not released, it will become useless.

4. He undertakes to indemnify the value of the said vehicle and undertakes to produce before the Court whenever directs to do so. He undertakes that he will not change the color, number, or identity of the said vehicle and also undertakes that he will not sell or alienate the same till the disposal of this case. The said vehicle is worth about Rs.25,000/-. Hence, prayed to release the above said vehicle for his interim custody in the interest of Justice and equity.

5. Learned PP files her objection contention that the application is not maintainable. The accused has used the said vehicle at the time of crime and hence, the police have seized it during investigation under PF.No.161/2020. The evidence has to be commenced and the witnesses have to be examined before the Court. So, the vehicle is needed for

identification and if the vehicle is released, the applicant may change the identity of the vehicle. Hence, prayed to dismiss the application.

6. Heard the argument of both side.

7. Now the points that arise for my consideration are as follows:

1. Whether the applicant has made out reasonable grounds to allow the application?

2. What order?

8. My answers to the above points are as under:

Point No.1 : In the Affirmative

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

REASONS

POINT NO.1:

9. I have gone through the case papers before me. Here, Narasimharaja Police have seized motor cycle bearing No.KA-55-EA-2839 in their Cr.No.203/2020 under PF.No.161/2020. They have registered the case against the accused for the offence punishable U/s 302 of IPC. The police have filed the charge sheet. At this juncture, the applicant

has come up with this application praying for the release of Suzuki motor cycle bearing No.KA-55-EA-2839 for his interim custody, as he is in need of that vehicle for his day to day use. The police documents do not reveal the name of this applicant. Of course, they have seized the above mentioned vehicle in Cr.No.203/2020. The applicant has produced the B-register extract which reflects that he is the owner of the Suzuki motor cycle bearing No.KA-55-EA-2839. He has also produced his Adhar card, which reflects that he is the resident of Mysuru. Of course, as rightly contended by the applicant, the vehicle is parked in front of the police station without shelter since 2020. As the police have filed the charge sheet in this case, the said vehicle is not required for further investigation. Of course, it is needed before the Court for identification by the witnesses, that can be met with by imposing certain stringent conditions on the applicant. So, this Court is of the view that if the vehicle is released to the interim custody of the applicant by putting certain stringent conditions, no prejudice would be caused to the prosecution. Hence, I answer Point No.1 in the **Affirmative** and proceed to pass the following:-

ORDER

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

interim custody of the Suzuki motor cycle bearing No.KA-55-EA-2839 Chassis No.MB8DP11AGK8E57653, Engine No.AF216097961 which was seized and reported to the Court as per PF.No.161/2020 is ordered to be given to the Applicant on his executing an indemnity bond for a sum of Rs.30,000/- with the following conditions:

- 1.He shall not alienate or part with the possession of the vehicle.
- 2.He shall not change the identity, colour or the mode of the vehicle.
- 3.He shall produce the said vehicle before the Court when ever directed by the Court.
- 4.The colour photograph of the vehicle to identify the vehicle shall be produced by the Applicant along with C.D before obtaining the interim custody of the vehicle.

(K.Bhagya)
III Addl. Sessions Judge,
Mysuru.