

KAUP010023702023



**IN THE COURT OF II ADDITIONAL DISTRICT &
SESSIONS JUDGE, UDUPI**

Present : **Dinesh Hegde, B.A., LL.B.,**
II Addl. District and Sessions Judge, Udupi

Dated : This the **22nd day of February, 2024**

S.C. No.33/2023

Petitioner: Prasanna R Shetty,
Aged about 48 years,
S/o Rathnakara S. Shetty,
R/at H.No.2-72,
Mukkali House,
Pangala,
Kaup Taluk,
Udupi District.

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

//VS //

Respondent: The State
Kaup Police Station
Udupi District

(Rep.By Public Prosecutor)



The petitioner has filed this petition under section 457 of Cr.P.C., to release the interim custody of a vehicle Datsun Redi Go Car bearing Reg. No.KA-70-M-1021 and Samsung Mobile Phone A207FD, Galaxy A20S(Blue) and Lava Mobile Phone which was seized by the Kaup Police in PF No.24/2023 in Crime No.16/2023 for the offences punishable under Section 302, 120(B), 201 r/w 149 of IPC.

2. The learned Public Prosecutor filed objections and police report is secured.

3. Heard both sides arguments and perused materials placed on records.

4. The following points that arise for my consideration is:

1. Whether the petitioner is entitled for interim custody of the Datsun Redi Go Car bearing Reg. No.KA-70-M-1021 and Samsung Mobile Phone A207FD, Galaxy A20S(Blue) and Lava Mobile Phone mentioned in PF No.24/2023 in Crime No.16/2023 seized by the Kaup Police Station?

2. What Order?



5. 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:**

REASONS

6. According to petitioner that he is owner of the Datsun Redi Go Car bearing Reg. No.KA-70-M-1021 and Samsung Mobile Phone A207FD, Galaxy A20S(Blue) and Lava Mobile Phone. The aforesaid vehicle has been kept outside the police station without proper care. The mobile phones are also kept in the police station without any proper care and if these mobiles and motor car continued to be kept there, the same will be spoiled and will become useless. The motor car and mobiles are not required for any investigation by the police and if it is so required, the claimant undertakes to produce the same before this court or any other court as and when so directed, if the same is released in his favour. The police have already filed charge sheet and as such the vehicle and mobile sets are not required for investigation. The claimant is ready to execute necessary bond before this court and



he undertakes to produce the same as and when so directed. Hence this petition.

7. The learned PP filed objections narrating the facts of the case and he has opposed to release of the property stating that the petitioner has not produced document. The Datsun Redi Go Car bearing Reg. No.KA-70-M-1021 and Samsung Mobile Phone A207FD, Galaxy A20S(Blue) and Lava Mobile Phone are required for the purpose of identification during the trial. There are chances of selling the articles and changing the identity which will effect the investigation. Hence, prayed for dismissal of the application.

8. Perused the materials on record, the case of the prosecution is that the complainant lodged a complaint before the Kaup Police Station against the the accused and based on the complaint a case has been registered against the accused for the offences punishable under Section 302, 120(B), 201 r/w 149 of IPC. The police after investigation filed charge sheet and case was committed to this court for trial. The accused No. 1 to 3 are in J.C



and accused No. 4 to 6 are in bail. Accused No. 6 at this juncture filed above application. There are no rival claimants claiming the above properties. For the purpose of identity of the property, the petitioner can be directed to produce the photographs of the vehicle and mobile phones and regarding selling and change of the identity of the items are concerned, suitable conditions can be imposed. Therefore, the petitioner is entitled for the interim custody of the above vehicle and mobile phones.

9. Hence, the petitioner has made out sufficient grounds to release the properties to his interim custody. Therefore, I answer the **point No.1 in the affirmative** and pass the following:

ORDER

Application filed by the petitioner under section 457 of Criminal Procedure Code is allowed.

The petitioner is entitled to the interim custody of the Datsun Redi Go Car bearing Reg. No.KA-70-M-1021 and Samsung Mobile Phone A207FD, Galaxy A20S(Blue) and Lava Mobile Phone seized in PF No.24/2023 and in Crime



No.16/2023 of Kaup Police Station, Udupi District by executing indemnity bond of Rs. 5,00,000/- with a surety for like sum with the following conditions:

1. The petitioner shall produced the properties before the court as and when required.
2. The petitioner shall not alienate the properties till the disposal of the case.
3. The petitioner shall not change the colour or identity of the properties till the disposal of the case.
4. The petitioner shall produce the photographs with CD of the properties duly counter signed by the investigating officer and submit the photos with CD to the this court forthwith.

(Dictated to the stenographer, directly on computer corrected and signed by me and then pronounced in open court on this the **22nd day of February, 2024**)

(DINESH HEGDE)

II Addl. District & Sessions Judge,
Udupi