

IN THE COURT OF PRINCIPAL DISTRICT
& SESSIONS JUDGE, BENGALURU RURAL DISTRICT,
BENGALURU.

Dated this the 26th day of August 2021

PRESENT:

Sri T.N. Inavally, B.A.L., LL.B.
Principal District & Sessions Judge,
Bengaluru Rural District,
Bengaluru.

S.C.No.138/2021

Complainant : The State of Karnataka
by Byadarahalli Police Station.

*(Represented by
the learned Prosecutor)*

Vs.

Accused : Rajesh and others.

Petitioner/
Applicant : Smt. Jayamma
W/o Nagaraju,
Aged about 51 years,
R/at No.235/11,
L.G. Ramanna Layout,
Shivaganesh Temple,
Lavakushanagara,
Bengaluru North,
Bengaluru - 560 058.

*(Represented by
Sri Premesh, Advocate)*

ORDER ON THE APPLICATION FILED UNDER SECTION
451 & 457 OF THE CODE OF CRIMINAL PROCEDURE

This application is filed by the petitioner/ applicant under Sections 451 and 457 of the Code of Criminal Procedure ('Cr.P.C.' for short) praying for an order to release the Dio Honda motorcycle bearing registration No.KA 02 KB 5755 ('the vehicle' for short) seized in the case as per P.F.No.17/2021 at item No.7 to her interim custody in this case in the interest of justice.

2. The contention of the petitioner is that she is the registered owner of the vehicle. During the course of investigation of the case, the complainant police seized the said vehicle from the accused No.4. The vehicle is no more required by the complainant police as they have completed investigation and filed charge sheet and the petitioner requires the vehicle for day to day use by herself and her family members. It is the contention of the petitioner that now the said vehicle is lying in front of the police station being exposed to sunlight, wind and

rain and it will lose its roadworthy condition, if the same is not released in her favour. The petitioner is ready and willing to abide by any conditions imposed by this Court while releasing the said cash amount. Therefore, the petitioner has prayed for allowing the application and to release the said vehicle to her interim custody with conditions, in the interest of justice.

3. The copy of the application is furnished to the learned Prosecutor on behalf of the complainant police and the learned Prosecutor has filed his objections submitting that the vehicle in question was used by the accused for committing the offences alleged and if it is given to the interim custody of the petitioner, there is every chance of the petitioner tampering with its colour and identity and it is difficult for identification of the vehicle at the time of trial of the case. Therefore, for the reasons mentioned in the objections, the learned Prosecutor has prayed for dismissal of the application.

4. Heard the arguments of the learned counsel for the petitioner and also the learned Prosecutor on the application.

Perused the relevant materials on record. Now the points that arise for my consideration are:

- 1) *Whether the petitioner has made out any sufficient ground for releasing the vehicle to her interim custody as sought for in the application?*
- 2) *What order?*

5. After hearing the arguments of both the parties and on considering the relevant materials on record, my findings on the above points are as hereunder:

Point No.1 : In the affirmative
Point No.2 : As per final order
For the following

REASONS

6. **POINT No.1**: The petitioner has filed the present application for release of the vehicle to her interim custody with conditions. It is not in dispute that the said vehicle was seized by the complainant police during the investigation as per item No.7 in P.F.No.17/2021. Moreover, if the facts of the case are considered, it would be clear that the said vehicle was alleged to have been used by the accused persons in the commission of the

alleged offences. But the investigation is already completed and the complainant police have filed charge sheet against the accused persons. Hence, the vehicle is no more required by the complainant police for the purpose of investigation of the case.

7. The only contention of the learned Prosecutor in the objections is that the vehicle is necessary for identification of the same at the time of trial of the case and hence, if it is released to the interim custody of the petitioner, there is no chance of the vehicle being identified. However, proper and necessary conditions may be imposed on the petitioner while releasing the vehicle to her interim custody, to meet any of the contentions put forth by the learned Prosecutor in his objections. Moreover, it is undisputed fact that the said vehicle is mechanically propelled device and hence, as submitted by the learned counsel for the petitioner, if the said vehicle is kept idle, exposing to sunlight and rain, there is chance of the said vehicle becoming useless. In such case, the petitioner being its RC owner will be put to hardship and inconvenience. Further, it is

pertinent to note that the petitioner herein is not the accused in the case. There is absolutely no any special ground made out by the learned Prosecutor to reject this application. Therefore, pending disposal of this case, the petitioner has made out sufficient ground to release the vehicle to her interim custody as sought for in the application, subject to proper and necessary conditions. Consequently, the point No.1 is answered in the affirmative accordingly.

8. **POINT NO.2:** From the discussion made herein above, it is clear that this application deserves to be allowed. In the result, therefore, I proceed to pass the following:

ORDER

This application filed by the petitioner under Sections 451 & 457 of Cr.P.C. is hereby allowed.

Consequently, the Dio Honda motorcycle bearing registration No.KA 02 KB 5755, which has been seized by the complainant police in the case in Crime No.31/2021 as per P.F.No.17/2021 at item No.7 shall be released to the interim custody of the petitioner under proper identification and due acknowledgement, pending disposal of this case, on the petitioner

executing Indemnity Bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with one solvent surety for like sum subject to the following conditions:

- 1) The petitioner shall to produce the vehicle whenever it is required for the purpose of trial before this Court and also before the complainant police.
- 2) She shall not transfer the said vehicle or dispose of the same in any manner to any third party till the disposal of this case.
- 3) She shall not change the colour or identity of the vehicle in any manner.
- 4) The colour photographs of the vehicle from all sides shall be taken by the complainant police at the cost of the petitioner and those photographs shall be produced before this Court immediately after release of the vehicle in favour of the petitioner.

*(Typed to my dictation by the Judgment Writer directly on Computer, and corrected and then pronounced by me in Open Court on this **the 26th day of August 2021**)*

(T.N. Inavally)

Principal District & Sessions Judge
Bengaluru Rural District,
Bengaluru.