

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.13111 of 2013

Dated: 31.12.2013

Between :

Ahmed Basha

... Petitioner

And

The State of A.P.
Rep. by its SHO.,
Badvel Rural P.S.
Badvel Mandal, Kadapa District,
Through Public Prosecutor,
A.P. High Court,
Hyderabad.

... Respondent

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.13111 of 2013

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ORDER :

This criminal petition is filed by the petitioner under Section 482 read with 457 the Code of Criminal Procedure, 1973, seeking release of the vehicle bearing registration No.AP-04-U-5416, seized in Crime No.99 of 2013 of Badvel Rural Police Station, Kadapa District, which was registered for the offences punishable under Sections 171 (E) IPC and Section 34 (A) of the Andhra Pradesh Excise Act.

2. The allegations in the First Information Report would disclose that on 25.07.2013 at about 5.00 a.m., the Sub Inspector of Police along with his staff intercepted the above vehicle, which was coming from Rachayapet. On search, they found 6 card board boxes having with 180 ml. liquor bottles. When questioned, one of the inmates of the vehicle informed that one of his brother is contesting in the panchayat elections and the liquor bottles were being transported from Badvel for distributing them to the voters. The liquor bottles seized appear to be duty paid liquor. Basing on the search and seizure, the above case came to be registered.

3. Learned counsel for the petitioner submits that the petitioner is the owner of the vehicle and he was not present in the vehicle at the time of alleged incident. It is further submitted that there is every likelihood of it getting spoiled due to exposure to sun and air. In view of the same, the petitioner seeks interim custody of the said vehicle.

4. Learned Public Prosecutor though opposed the petition, did not dispute the petitioner's ownership of the vehicle.

5. In **Sunderbhai Ambalal Desai V. State of Gujarat**^[1] the Hon'ble Apex Court has held that in case of vehicles seized during investigation, they should not be

allowed to deteriorate by being kept unused and unattended in the premises of the police stations. The vehicle has to be entrusted to the interim custody of the owner subject to certain terms and conditions.

6. Taking into consideration the facts and circumstances of the case and having regard to the principles of law laid down by the Apex Court in the decision stated supra, and since no useful purpose would be served in detaining the vehicle in the police station, this Court is of the opinion that it would be appropriate to order interim custody of the vehicle i.e. Commander 650DI bearing No.AP 04 U 5416 in favour of the petitioner on certain terms and conditions:

- i) The petitioner shall execute a personal bond for Rs.2,00,000/- (Rupees two lakhs only) with one surety for the like sum to the satisfaction of the Station House Officer, Badvel Rural Police Station, Kadapa District.
- ii) The petitioner shall produce the original Registration Certificate of the vehicle in the Court.
- iii) The petitioner shall give an undertaking not to alienate, encumber or alter the physical features of the above said vehicle; and
- iv) The petitioner shall produce the vehicle as and when required by the Court.

7. Accordingly, the Criminal Petition is allowed. It is

made clear that the order shall not come in the way of the authorities to proceeding further in accordance with law.

8. As a sequel, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

C. PRAVEEN KUMAR, J

31st December 2013.

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[\[1\]](#) (2002) 10 SCC 283