HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 49 OF 2015

ORDER:

The petitioner, who is the owner of an Auto Rickshaw bearing No.AP 20 TB 8015 filed the present criminal revision under Sections 397 and 401 of Cr.P.C. questioning the order dated 02.01.2015 passed in Crl.M.P.No.4006 of 2014 in C.O.R.No.1129 of 2014-2015 of Prohibition and Excise Station, Khammam, wherein and whereunder the application seeking interim custody of the above vehicle was rejected.

The case of prosecution is that on 12.12.2014, the Prohibition and Excise Inspector while conducting raid intercepted an Auto Rickshaw bearing No.AP 20 TB 8015 near SR&BGNR College, Khammam. On search, they found the vehicle transporting I.D.Liquor without any valid permit or licence. Basing on the said search and seizure, a case in C.O.R.No.1129 of 2014-2015 came to be registered.

The learned counsel for the petitioner mainly submits that a false case has been foisted against the petitioner and that the vehicle belonging to the petitioner was never involved in the commission of offence. He further submits that in view of the judgment of the Apex Court in ***Surenderbhai Ambalal Desai Vs. State of Gujarat***[1], interim custody of vehicle may be given to the petitioner, till it is proved that the vehicle was actually involved in the commission of offence. He further submits that if the vehicle is left exposed to sun and rain, there is every possibility of vehicle getting damaged.

Learned Public Prosecutor, on instructions, submits that though the vehicle was involved in the commission of offence, there is no dispute with regard to its ownership. He submits that the vehicle is in

the custody of the police.

Having regard to the circumstances of the case and in view of the judgment of the Apex Court in ***Surenderbhai Ambalal Desai v. State of Gujarat*****,** the request of the petitioner can be considered on certain terms and conditions:

i) The petitioner shall execute a personal bond for Rs.75,000/- (Rupees Seventy Five Thousand only) with one surety for a like sum to the satisfaction of the Spl.Judicial First Class Magistrate, Prohibition and Excise Court, Khammam.

ii) The petitioner shall produce the original Registration Certificate of the vehicle in the Court.

iii) The petitioner shall give an undertaking to produce the vehicle as and when required by the Court and also an undertaking not to alienate, encumber or alter the physical features of the vehicle bearing registration No. No.AP 20 TB 8015 ;

iv) This order shall not preclude the authorities in proceeding further in accordance with law.

Accordingly, the Criminal Revision Case is allowed.

As a sequel thereto, Miscellaneous Petitions pending if any in this criminal revision, shall stand closed.

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C. PRAVEEN KUMAR, J

Date: 12.02.2015
vhb

[1] (2002) 10 SCC 283