

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.314 of 2015

-

ORDER:

-

The present revision is filed under Sections 397 and 401 Cr.P.C. questioning the order dated 29.10.2014 passed in CrI.M.P.No.2606 of 2014 in Crime No.501 of 2013 on the file of the Special Judicial Magistrate of First Class, Prohibition and Excise Court, Khammam, wherein and where under a petition filed under Section 457 (1) Cr.P.C. seeking interim custody of Appi Trolley Auto bearing No. AP 36 TB 1162 was rejected.

The facts in issue are as under:

On 22.12.2013 at about 5.00 p.m. accused No.1, who is the driver of Trolley Auto bearing No. AP 36 TB 1162 purchased the black jaggery and alum from accused No.2 at Jaggaiahpet and was transporting the same to his house for selling. The police intercepted the vehicle while they were conducting vehicle check near Mustafanagar Petrol Bunk and seized 5 quintals of jaggery and 30 kgs. of alum worth Rs.20,900/- while they were conducting vehicle check near Mustafanagar Petrol Bunk. The police seized the entire stock along with Trolley Auto. Basing on these allegations the above case came to be registered.

Learned counsel for the petitioner mainly submits that the petitioner, who is the owner of the vehicle was not present at the time of the alleged incident and that no useful purpose would be served in keeping the vehicle idle in the police station. He further submits that the driver misused the vehicle without the knowledge of the petitioner

The learned Additional Public Prosecutor though opposed the application but however did not dispute the ownership of the vehicle and also the fact of vehicle

being in the custody of the police. He however pleads the imposition of stringent condition.

A perusal of the material placed before this Court would indicate that a petition filed under Section 457 of Cr.P.C. seeking release of the vehicle was rejected by the learned Magistrate on the ground that the vehicle was used for transporting of black jaggery and the petitioner was having knowledge about the same.

Mere possession of jaggery by itself is not an offence either under provision of Andhra Pradesh Excise Act or under Andhra Pradesh Prohibition Act. If the petitioner had knowledge that the material transported in his vehicle was being used for manufacturing illicit distilled liquor, then the question of releasing the vehicle in favour of the petitioner would not arise. In the case on hand, there is no material to show that the petitioner had knowledge that the material that was transported in his vehicle was being used for manufacture of illicit liquor. Further, there is no dispute that the petitioner is the owner of the vehicle.

In ***Surenderbhai Ambalal Desai v. State of Gujarat***, the Apex Court has laid down 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. Therefore, the vehicle has to be entrusted to the interim custody of the petitioner subject to appropriate conditions.

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, I am inclined to grant interim custody of the vehicle Auto bearing No. AP 36 TB 1162 seized in Crime No.501 of 2013 of Khammam I Town Police Station, Khammam District, in favour of the petitioner, provided the vehicle is in the custody of the regular police and no confiscation proceedings are initiated, on the following terms and conditions.

- i. The petitioner shall execute a personal bond for Rs.1,00,000/- (Rupees one lakh only) with one surety for a like sum to the satisfaction of the Special Judicial Magistrate of First Class, 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.AP 36 TB 1162;
- 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.

C. PRAVEEN KUMAR, J

08.04.2015

gkv