

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL REVISION CASE No.1541 of 2015

ORDER

The petitioners filed this Criminal Revision Case by invoking the provisions under Sections 397, 401 and 483 of the Criminal Procedure Code being aggrieved by the order dated 29.7.2015 passed in CrI.M.P.No.649 of 2015 in Crime No.165 of 2015 of Narketpally Police Station by the learned Special Judicial First Class Magistrate (For Prohibition & Excise Offences) at Nalgonda.

2. Heard.

3. Petitioner No.1 is the owner of the vehicle i.e., Bolero bearing No.AP-28-TB-3951 and petitioner No.2 is the owner of 178 bags of black jaggery and nine bags of alum. When the petitioners approached the Court below for interim custody of the vehicle and the property, the Court below dismissed the application. Challenging the same, the present revision has been preferred.

4. Learned counsel for the petitioners submitted that if the vehicle is kept idle for a long period, there is every possibility of it getting damaged and submitted that petitioner No.1 is ready to produce the vehicle as and when required by the Court. He further submitted that the black jaggery and alum are perishable in nature and hence, prayed to grant interim custody of the same.

5. Learned Additional Public Prosecutor objected for grant of interim custody submitting that the vehicle is involved in a crime.

6. Where petitioner No.1 claims to be owner of the offending vehicle, I deem it appropriate to return the vehicle to petitioner No.1 for interim custody, as the non-use of the vehicle is likely to spoil the

vehicle. However, petitioner No.1 shall have the interim custody of the vehicle on terms only.

7. Interim custody of the vehicle i.e., Bolero bearing registration No.AP-28-TB-3951 be granted to petitioner No.1 subject to the condition that petitioner No.1 proves the ownership of the said vehicle and furnishes personal security for a sum of Rs.2,00,000/- (Rupees two lakhs only) together with one surety in a like sum and also on further conditions, viz.,

- (i) Petitioner No.1 shall not tamper with the vehicle in any manner and shall maintain the vehicle as it stands as on today;
- (ii) Petitioner No.1 shall produce the vehicle as and when directed by the trial Court.
- (iii) the custody is only interim custody; consequently, petitioner No.1 shall not put the vehicle to any use other than his personal use, and

petitioner No.1 shall not sell or otherwise dispose of or alienate the vehicle until disposal of the case in Crime No.165 of 2015 of Narketpally Police Station.

8. Insofar as the claim of petitioner No.2 is concerned, it is not the case of the prosecution that the black jaggery and alum are adulterated ones. I, therefore, deem it appropriate to order interim custody of the seized black jaggery and alum, which are perishable in nature.

9. Subject to the final orders being passed in the main case, petitioner No.2 is granted interim custody of the seized black jaggery and alum by the concerned officials on his furnishing third party security in a sum of Rs.1,00,000/- (Rupees one lakh only) and on furnishing proof of ownership of the seized property.

10 . Accordingly, the Criminal Revision Case is allowed.
Miscellaneous petitions pending in this revision, if any, shall stand closed.

JUSTICE M.S.K.JAISWAL

Date:19.8.2015
AMD

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