

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.508 of 2015

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ORDER:
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The present revision is filed under Sections 397 and 401 Cr.P.C. questioning the order dated 22.08.2014 passed in CrI.M.P.No.657 of 2014 in P.O.R.No.013902/1/2013 on the file of the Judicial Magistrate of First Class, Andole at Jogipet, wherein and where under a petition filed under Section 457 Cr.P.C. seeking interim custody of Tata Hitachi Excavator Ex.200 of 2005 model serial No. 2001-5664 was rejected.

The petitioner is the owner of the said vehicle. A case in P.O.R.No.013902/1/2013 came to be registered on 05.08.2014 for the offences punishable under Sections 29, 39 and 51 of the Wild Life Protection Act, 1972, when the accused used the vehicle for illegal formation of fish tanks in the W.L.S. Manjeera.

Learned counsel for the petitioner mainly submits that the provisions of Wild Life Protection Act would not apply to the case on hand and as such the petitioner is entitled for the interim custody of the vehicle.

Dealing with the release of forest produce or property used in the commission of offence the Apex Court in ***State of Karnataka v. K.Krishnan*** held as under:

“We are of the considered view that when any vehicle is seized on the allegation that it was used for committing a forest offence, the same shall not normally be returned to a party till the culmination of all the proceedings in respect of such offence, including confiscatory proceedings, if any. Nonetheless, if for any exceptional reasons a Court is inclined to release the vehicle during such pendency, furnishing a bank guarantee should be the minimum condition. No party shall be under the

impression that release of vehicle would be possible on easier terms, when such vehicle is alleged to have been involved in commission of a forest offence. Any such easy release would tempt the forest offenders to repeat commission of such offences. Its casualty will be the forests as the same cannot be replenished for years to come.”

The material on record discloses that the vehicle was being taken on hire for digging a fish tank in a place which was found to be a forest area. Admittedly the petitioner is the owner of the vehicle and the same is not disputed by the learned Public Prosecutor.

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.

Since there is no dispute with regard to the ownership of the vehicle and in view of the judgments of the Apex Court referred to above, I am inclined to grant interim custody of the vehicle Tata Hitachi Excavator Ex.200 of 2005 model serial No. 2001-5664 seized in P.O.R.No.013902/1/2013 in favour of the petitioner, on the following terms and conditions.

- i. The petitioner shall execute a personal bond for Rs.10,00,000/- (Rupees ten lakhs only) and also furnish a bank guarantee for the said sum to the satisfaction of the Judicial Magistrate of First Class, Andole at Jogipet.
- ii. The petitioner shall deposit the necessary documents relating to the proof of ownership of the vehicle.
- iii. The petitioner shall give an undertaking to produce the vehicle as and when required by the Court and also undertake not to alienate, encumber or alter the physical features of the vehicle.

Accordingly, the Criminal Revision Case is disposed of.

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

C. PRAVEEN KUMAR, J

16.04.2015

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