

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.289 OF 2015

ORDER:

The present Revision is filed by the petitioner/owner of the vehicle under Sections 397 and 401 of Cr.P.C. seeking interim custody of Auto bearing No.AP-20-TC-1754 which was seized in C.O.R. No.962 of 2014-15 of Prohibition and Excise Station, Khammam, registered for the offence punishable under Section 7(A) read with 8(e) of the A.P. Prohibition Act, 1995.

Pending investigation in the above crime, the petitioner who is the owner of the vehicle filed an application under Section 457 (1) Cr.P.C. seeking interim custody of the same, but the same was dismissed. Aggrieved by the same, the present Revision is filed.

The learned counsel for the petitioner mainly submits that the petitioner is the owner of the Auto and he is eking out his livelihood by way of running the auto on hire basis and that he is noway concerned with the alleged offence.

The learned Public Prosecutor opposed the application and contended that in view of the judgment of the Apex Court in **Y.Krishna Kishore v. Government of Andhra Pradesh and others**^[1] the vehicle is liable for confiscation if it is proved that the vehicle was involved in transporting of the contraband liquor.

In **P.Swarupa v. State of A.P.**,^[2] a Division Bench of this Court held that the Court has jurisdiction to entertain an application for interim custody of the property if the case is exclusively registered under the provisions of the Andhra Pradesh Prohibition Act or under

the provisions of the A.P. Excise Act and A.P. Prohibition Act. The Division Bench further clarified that if the case is laid exclusively under the provisions of the A.P. Excise Act, it is the Deputy Commissioner of Excise who is entitled to dispose of the property.

In ***Surenderbhai Ambalal Desai v. State of Gujarat***^[3], 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.

As seen from the record the case is still at the stage of investigation and as such it cannot be said that the vehicle belonging to the petitioner was proved to have been transporting the contraband liquor. There is no dispute with regard to the ownership of the Auto bearing No.A.P.20-TC-1754 and the learned Public Prosecutor on instructions stated that the vehicle is lying in the police station.

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 Auto bearing No.A.P.20-TC-1754 seized in C.O.R No.962 of 2014-15 of Prohibition and Excise Station, Khammam, in favour of the petitioner on the following terms, if the vehicle is in the custody of the regular police and no confiscation proceedings are initiated by Deputy Commissioner of Prohibition and Excise till date.

- 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 auto bearing registration No.A.P.20-TC-1754;

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

Accordingly, the Criminal Petition is allowed.

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

C. PRAVEEN KUMAR, J

Date:20.03.2015

GM

[\[1\]](#) 2014(1) ALD (Crl.) 551

[\[2\]](#) 1995(3) ALD 1090 (DB)

[\[3\]](#) (2002) 10 SCC 283