

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16884 OF 2016

ORDER:

This criminal petition, under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to relax the condition imposed by the I Additional Sessions Judge, West Godavari, Eluru, in CrI.M.P.No.544 of 2016 in Cr.No.40 of 2016-17 of Prohibition and Excise Station, Eluru, West Godavari District.

The petitioner filed an application CrI.M.P.No.544 of 2016 under Section 457 of Cr.P.C. for return of property, i.e. Toyota Etios GD Car bearing registration No.KA 09 C 4097, which was seized in Cr.No.40 of 2016-17 by Prohibition and Excise Police, Eluru, for the offences punishable under Section 8(e) read with 20(b) of NDPS Act, before the I Additional Sessions Judge, West Godavari, Eluru.

The learned I Additional Session Judge allowed the application, imposing certain conditions and one of the condition is that the petitioner shall furnish Bank guarantee for Rs.10,00,000/- for release of the vehicle. Aggrieved thereby, the present criminal petition is filed on the ground that the value of the vehicle is less than Rs.10,00,000/- and insisting to furnish Bank guarantee for Rs.10,00,000/-, for release of the vehicle is onerous condition and it amounts to denial of release, virtually, and prayed to set aside the order under challenge and release the vehicle without furnishing Bank guarantee.

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During hearing, learned counsel for the petitioner produced the Tax Invoice evidencing the purchase of the vehicle for Rs.8,00,000/-.

No doubt, the offence committed by the petitioner is grave offence punishable under Section 8(e) read with Section 20(b) of The Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and according to the provisions of NDPS Act, if the involvement of the vehicle is proved, it is liable for confiscation to the State. But keeping the seized the vehicle at the police station for a long period would cause irreparable loss to the petitioner and it will become derelict, in case it is exposed to sun and rain. Therefore, taking into consideration of the facts and circumstances of the case, the I Additional Sessions Judge, ordered release of the vehicle on furnishing Bank guarantee for Rs.10,00,000/-. The learned Counsel for the petitioner produced a Photostat copy Tax Invoice issued by Toyota dealer, wherein the cost of the vehicle is Rs.8,00,000/-. Insisting for furnishing Bank guarantee for Rs.10,00,000/-, when the value of vehicle was Rs.8,00,000/-, appears to be onerous and such order cannot be sustained, since it amounts to denial of release of the vehicle.

Therefore, taking into consideration of the value of the vehicle as on 30.01.2015, I deem it appropriate to reduce Bank guarantee from Rs.10,00,000/- to Rs.7,00,000/- in view of passage of time from the date of purchase of the vehicle.

With the above modification, the criminal petition is allowed. The order dated 07.09.2016 in CrI.M.P.No.544 of 2016

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passed by the I Additional Sessions Judge, West Godavari, Eluru, holds good in other respects.

The officials concerned are directed to release the Toyota Etios GD Car bearing No.KA 09 C 4097 on furnishing Bank guarantee for Rs.7,00,000/- (Rupees seven lakhs only), subject to complying other terms and conditions imposed by the learned I Additional Sessions Judge, West Godavari, Eluru, in CrI.M.P.No.544 of 2016.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

Date: 20.12.2016
BV

M. SATYANARAYANA MURTHY, J

