

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7463 of 2017

ORDER :

This petition is filed under Section 482 Cr.P.C. impugning the order of the learned Principal Junior Civil Judge-cum-Additional Judicial First Class Magistrate, Hushabad, dismissing the application in CrI.M.P.No.182 of 2017 sought for interim custody of the petitioner, which is a crime property of Crime No.97 of 2017, on 19.05.2017.

Heard learned counsel for the petitioner and learned Public Prosecutor representing the State.

The facts for registering the crime disclosed that while under police patrolling, from the report of the *de facto* complainant covered by panchanama, one V.Ramesh coming from Pandilla Village side on a Honda Activa Motor Cycle carrying a bag under suspicious circumstances and on seeing the police, when he tried to escape, even they chased he escaped leaving motor cycle with the bag therein and when checked the said bag, found banned Amber packets 110 in number worth Rs.30,000/- and they seized the same under panchanama. The petitioner, by name, Vaddepalli Parandhamulu, who is also one of the accused from the remand report of the said panchanama as a subsequent incident to the said registering of crime as part of investigation, he sought for return of the vehicle.

The learned Magistrate observed vide impugned order that the vehicle is a case property, in the event of proof, it also liable to be confiscated.

It is premature to judge the same and the expression of the Apex Court in *Sundarbhai Ambalal Desai v. State of Gujrat*¹ is very clear that interim custody of the property can be considered, more particularly, when the vehicle to be kept in idle it will become a junk by dis-use but if at all say the covered panchanama and panchanama to use those part of adduced evidence. When sought for interim custody, if the vehicle is liable for confiscation, the interim custody is only as a custodial *legis* to entrust to produce as and when required and not to change the utility or alienate the property, the petition could have been allowed.

Having regard to the above, this Criminal petition is allowed subject to execution of a self-bond with immovable property or bank guarantee for a sum of Rs.1,00,000/- (Rupees One Lakh only) to the satisfaction of the learned Magistrate and giving of an undertaking to produce the vehicle as and when required and will not change the utility and will not alienate.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:05-09-2017
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¹ AIR 2003 SC 638

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7274 of 2017

DATE: 24.08.2017



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