

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.207 OF 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner seeking to quash the order dated 28.11.2017 passed in CrI.M.P. No.3539 of 2017 on the file of the V Additional Judicial Magistrate of First Class, Tirupati (for short, 'the Court below'), wherein the Court below dismissed the application filed under Section 451 Cr.P.C. for interim custody of case property, i.e., Tractor and Trailer bearing registration Nos.AP 03AU 4075 and AP 03AU 4076.

2. Heard the learned counsel for the petitioner and the learned Assistant Public Prosecutor for the 1st respondent-State, apart from perusing the material on record.

3. Learned counsel for the petitioner would submit that the petitioner is said to be the owner of the tractor and trailer bearing registration Nos.AP 03AU 4075 and AP 03AU 4076 in Crime No.314 of 2017 of Tiruchanur Police Station; the learned Magistrate erroneously dismissed the application filed by the petitioner; and ultimately, prayed to allow the application by granting interim custody of the tractor and trailer.

4. Learned Assistant Public Prosecutor opposed the grant of relief sought for by the petitioner.

5. It is not in dispute that in the event of proof of the allegations, the tractor and trailer is liable to be confiscated. Merely because the tractor and trailer is liable to be confiscated for the alleged offences, the true owner cannot be denied its custody pending enquiry or trial. Under these circumstances, the petitioner is entitled for the custody of the tractor

and trailer bearing registration Nos.AP 03AU 4075 and AP 03AU 4076 on the following conditions:

- (1) The petitioner-owner of the tractor and trailer shall execute a personal bond for Rs.2,00,000/- (Rupees two lakhs only) with one surety having immovable property, to the satisfaction of the learned Magistrate concerned;
- (2) The petitioner shall produce the original R.C. book of the tractor and trailer before the learned Magistrate;
- (3) The petitioner shall produce the tractor and trailer as and when required and he should not make any changes to the tractor and trailer.

6. This Criminal Petition is allowed accordingly. Pending Miscellaneous Petitions, if any, shall stand closed.

21st February, 2018
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Dr. SHAMEEM AKTHER, J

