

HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

Criminal Petition No.11394 of 2018

ORDER:

The petitioner is the accused in Special Sessions Case No.49 of 2018 on the file of the learned I Additional Sessions Judge, Warangal for the offence punishable under Section 364 IPC. The police after investigation in Crime No.38 of 2018 for the said offence filed the final report and the case is now pending as Special Sessions Case No.49 of 2018 referred supra.

2. The petitioner filed an application in CrI.M.P.No.536 of 2018 before the learned I Additional Sessions Judge, Warangal under Section 451 Cr.P.C. for interim custody of the Pulsar 220 DTS-I BSIV motor cycle bearing registration No.TS 27A 0970 saying he produced the original R.C. and he is the owner and the vehicle is kept idle and the police having seized the vehicle produced before the Court in C.P.R. No.27 of 2018 and it is kept in the police custody till further orders and if it is kept idle without use, it will be rusted and ultimately with no utility and he is ready to furnish whatever the bond required to be given and abide by such conditions for interim custody, that was opposed by the learned Public Prosecutor before the trial Court to say the vehicle is required for marking during trial, and the trial Court with the observation of there is every possibility of the petitioner-accused changing the physical features of said vehicle dismissed the

petition for no merits. Impugning the same, the present Criminal Petition is filed.

3. Heard the learned counsel for petitioner and the learned Additional Public Prosecutor representing the State of Telangana and perused the impugned order referred supra and the other material on record.

4. As per the expression of the Apex Court in **Sunderbhai Ambalal Desai v. State of Gujarat**¹ the vehicle rather than keeping in disuse can be given interim custody after covering necessary video and photograph to exhibit the same as evidence during trial, leave about the bond to be obtained to produce with security. Once such is the case, merely because the vehicle is to be exhibited during trial it cannot be denied the interim custody from the expression of the Apex Court.

5. Having regard to the above, this Criminal Petition is allowed permitting the interim custody of vehicle i.e., Pulsar 220 DTS-I BSIV motor cycle bearing registration No.TS 27A 0970 to the petitioner subject to the condition of the petitioner giving the F.D.R. or cash deposit or immovable property security with deposit of original title deeds worth Rs.1,00,000/- (Rupees one lakh only) and also to execute bond on Rs.100/- **non-judicial stamp** paper in favour of the Court stating that he will not change the utility of the vehicle nor any parts

¹ 2002 (10) SCC 283

including engine and chassis, but from interim custody only use of the vehicle without impairing its value and utility otherwise and to produce as and when required and in the absence of which, to forfeit the entire amount given as security by cash deposit/fixed deposit by encashing or otherwise to recover from the security to be furnished by deposit of original title deeds under Section 53 IPC. He also has to undertake that the photograph of the vehicle now to be taken before release for interim custody can be marked instead marking the vehicle as material object during trial will be binding on him in the event of his inability to produce and he will not transfer the vehicle directly or indirectly. The learned Magistrate shall endorse on the original R.C. book of the vehicle is given only for interim custody and prohibited from transfer and intimate to the R.T.A. concerned not to entertain any transfer and keep the original R.C. with the Court by providing certified Xerox copy to the petitioner with endorsement as not transferable.

Consequently, miscellaneous petitions, if any shall stand closed.

Dr. B.SIVA SANKARA RAO, J

30.10.2018
MVA