

THE HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION Nos.460 and 464 of 2019

COMMON ORDER :

The petitioner-Gali Veera Rama Chandra Balaji of Kukatpally none other than the accused in crime No.198/2018 of Begumbazar Police Station registered for the offences punishable under Sections 171-B read with E, C and F of Indian Penal Code, from the allegations of on 06.12.2018 while on patrolling duty by Police searching vehicles, in vehicle No.AP9BA 4646 found Rs.50 lakhs cash and pamphlets of a political party and accused made a disclosure of distribution to the voters in the ensuing Assembly elections and Police seized the vehicle and also the cash, Samsung cell phone and pamphlets.

Pending crime, petitioner filed CrI.M.P.Nos.262/2019 and 3160/2018 respectively one for return of cash of Rs.50 lakhs and the other for return of Toyota Innova vehicle No.AP9BA 4646 and Cell phone supra. Those petitions were opposed by the Public Prosecutor representing the State before the learned XVII Additional Chief Metropolitan Magistrate, Nampally, and those were ultimately dismissed by the impugned orders dated 24.01.2019 and 21.12.2018 respectively saying from the nature of offence and facts of the case not a fit case to handover the vehicle and the cash.

The contentions in the petitions impugning the said dismissal order are that the learned Magistrate did not properly addressed to the scope of law and facts of the case and should have ordered for return and safe custody of the property in

question and dismissal is contrary to the settled expressions, thereby sought for allowing.

Learned Public Prosecutor opposed the same.

Heard and perused the impugned orders and other material on record. As held by the Apex Court in ***Sunderbhai Ambalal Desai vs. State of Gujarat***¹, the property seized particularly the vehicles cannot be kept idle without use as ultimately lost their utility so also for any interim custody of gold or cash by preserving the evidence of video and photo coverage ultimately to use if necessary as evidence. No doubt, each case depends on its own facts. So far as return of the cash concerned, undisputedly the cash is seized from the petitioner and it is a matter to be investigated. If at all he wants to take cash, he can so subject to furnishing of security of immovable property worth Rs.75 lakhs by deposit of title deeds, execution of bond by confirmation of deposit of title deeds in favour of the Court ultimately for recovery, if necessary for causing production of the said cash or its value if not produced so as to proceed against the property and to give undertaking in the bond also by deposit of original title deed with encumbrance certificate and proof of possession to produce such value of cash as and when required if necessary with bank fixed deposit rate of interest further by taking video and photography with panchanama of the currency notes at the cost of the petitioner.

Now so far as the cell phone and vehicle concerned, to return by covering video and photo coverage and panchanama

¹ 2003 (1) CTC 175

proceedings, if necessary, and subject to furnishing security of immovable property by deposit of title deeds or execution of bond referred supra for Rs.10 lakhs and also by making an endorsement that intimation to RTA concerned that the vehicle is subject matter of present crime under investigation and cannot be alienated and on giving a bond with an undertaking not to alienate or not to change its utility but for use as it is in condition and to produce as and when required. Similar is the case with regard to cell phone by retrieving any information contained therein if at all necessary for the crime through download from the cell phone information and return the same subject to similar furnishing of security for Rs.15,000/- with bond. The security to be furnished is even consolidated and bond to be executed is even consolidated as petitioner is one and the same.

Accordingly, both the Criminal Petitions are allowed.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

20th February 2019.
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