

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.2139 of 2019

ORDER :

This Criminal Petition is filed under Section 482 Cr.P.C., directing the respondent – State, representing the Station House Officer, Toopran Police Station, Medak District, to release the vehicle i.e., Lorry bearing No.HR 55 S 7611 from their custody in favour of the petitioner.

The facts of the case are that the petitioner is the owner of the vehicle i.e., Lorry bearing No.HR 55 S 7611 and on 16.04.2018 the said vehicle was seized from the possession of Accused No.6, who is the driver of the said vehicle, in Crime No.64 of 2018 of Toopran Police Station, Medak District, registered for the offences punishable under Sections 379, 399, 441 of IPC and Section 25(1) of Indian Arms Act, that A.6 is using the said vehicle for transportation of the stolen cattle without the knowledge of the petitioner, that the petitioner claiming to be the owner of the said vehicle filed CrI.M.P.No.961 of 2018 in Crime No.64 of 2018 (subsequently numbered as PRC.No.5 of 2018) on the file of Principal Junior Civil Judge-cum-Judicial First Class Magistrate, Gajwel, Medak District, seeking interim custody of the said vehicle, however, the learned Magistrate, by order dt.23.11.2018 dismissed the said application. Hence, the present Criminal Petition.

Learned counsel for the petitioner submits that there is every possibility of the vehicle being getting damaged, if it is kept idle exposed to air, sun and rain at the Court premises and hence seeks interim custody of the said vehicle.

The learned Additional Public Prosecutor, though opposed the relief sought in the petition, did not dispute the ownership of the crime vehicle.

In SURENDERBHAI AMBALAL DESAI V. STATE OF GUJARAT¹, the Apex Court has laid down that in case of vehicles seized during investigation, they should not be allowed to deteriorate by being kept unused and unattended in the premises of the Police Stations. Therefore, the vehicle has to be entrusted to the interim custody of the petitioner subject to appropriate conditions.

Since there is no dispute with regard to the ownership of the subject vehicle and having regard to the principles of law laid down by the Apex Court in SURENDERBHAI AMBALAL DESAI's case (supra), I am inclined to grant interim custody of the vehicle i.e., Lorry bearing No.HR 55 S 7611 seized in Crime No.64 of 2018 of Toopran Police Station, Medak District, in favour of the petitioner on the following terms.

- i) The petitioner shall execute a personal bond for Rs.8,00,000/- (Rupees eight lakhs only) with one surety for a like sum to the satisfaction of

¹ (2002) 10 SCC 283

the Principal Junior Civil Judge-cum-Judicial First Class Magistrate, Gajwel, Medak District;

- ii) The petitioner shall deposit the original Registration Certificate of the said vehicle in the Court. However, the trial Court shall issue a certified copy of the registration certificate to the petitioner so that no inconvenience is caused to him while using the vehicle.
- iii) The petitioner shall give an undertaking to produce the said vehicle as and when required either by the Investigating Agency or the Court and also give an undertaking that he will not alienate, encumber or alter physical features of the said vehicle.

Accordingly, this Criminal Petition is disposed of.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE G. SRI DEVI

08.08.2019.
Msr

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Msr