

THE HON'BLE JUSTICE G.SRI DEVI
CRIMINAL PETITION No.2803 of 2019

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner to grant interim custody of the vehicle bearing registration No.AP-10-AY-2763 to the petitioner herein, which was seized in Crime No.194 of 2018 of Bibinagar Police Station, Rachakonda Police Commissionerate, registered for the offence punishable under Section 394 of IPC.

2. Heard the submissions of Sri Rajagopallavan Tayi, learned counsel for the petitioner, the learned Additional Public Prosecutor representing the sole respondent/State and perused the record.

3. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle bearing registration No.AP-10-AY-2763(Hyundai Verna car). Her son purchased the subject vehicle in the name of the petitioner and he used to give the vehicle on hire to the known persons. The subject vehicle was hired by the accused on 10.10.2018, who committed offence punishable under Section 394 of IPC. During the course of investigation, the police seized the subject vehicle. Subsequently, the petitioner filed an application in CrI.M.P.No.6 of 2019 (in Crime No.194 of 2018 of Bibinagar Police Station, Rachakonda Police Commissionerate) before the Additional Judicial Magistrate of First Class, Bhongir, for release of the

subject vehicle in her favour. The said application was dismissed by the trial Court, vide docket order, dated 21.01.2019, *inter alia* observing that though the said vehicle was used in commission of the alleged offence by the persons who are not its owners, but the offence committed by the accused, in which the subject vehicle is allegedly involved, is grave in nature. The learned counsel further submits that the petitioner neither committed any offence nor the subject vehicle was involved in the commission of the alleged offence. The accused who committed the alleged offence were arrested and remanded to judicial custody and as such, the vehicle is not further required for further investigation. If the vehicle is kept in an open place near the police station or the Court premises by exposing it to rain and sun, it will get damaged and its value will deteriorate. The petitioner is prepared to abide by any conditions, which may be imposed by this Court while granting interim custody of the vehicle to the petitioner and ultimately prayed to grant interim custody of the vehicle bearing registration No.AP-10-AY-2763 to the petitioner.

4. The learned Additional Public Prosecutor representing the sole respondent/State conceded to the request of the petitioner and submitted that interim custody of the subject vehicle may be granted to the petitioner by imposing conditions.

5. Having regard to the submissions of both the learned counsel and without expressing any view on the merits of the matter, this Court, at this stage, is satisfied that the interim

custody of the subject vehicle can be given to the petitioner after imposing necessary conditions, as release of the seized vehicles by the Magistrates or the authority concerned is a rule and the rejection is an exception. Powers under Sections 451 and 457 of Cr.P.C., wherever and whenever exercisable, are to be properly and promptly exercised to see that vehicles are not kept for a long time at a police station or in the Court premises, in any case. Keeping any vehicle idle in an open place exposing it to sun, rain and inclement weather, without any protection, would lead to deterioration of its value and irreparable damage. Instead of allowing a vehicle to lie idle and rot in front of a police station or in the Court premises, it is apt to give interim custody of the vehicle to an eligible applicant, as such a course helps not only in keeping the vehicle in a good condition, but also inures for the benefit of the ultimate successful party. In the instant case, there are no compelling reasons to not to pass an order giving interim custody of the vehicle to the petitioner.

6. Accordingly, this Criminal Petition is allowed. The learned Additional Judicial Magistrate of First Class at Bhongir, is directed to grant interim custody of the vehicle bearing registration No.AP-10-AY-2763 to the petitioner, on the petitioner executing a personal bond to the tune of Rs.1,00,000/- (Rupees one lakh) with two sureties for the like amount of Rs.1,00,000/- (Rupees one lakh) each, to the satisfaction of the learned Magistrate and on the petitioner further undertaking that he will not alienate or transfer the vehicle, in any manner, and will maintain it in the same good and roadworthy condition, without changing any of

its features and major parts and will not take it out of the territorial limits of the States of Telangana and Andhra Pradesh and would produce it along with vehicular documents at a specified place or before a specified authority, as and when directed by the trial Court, and would co-operate with the investigating agency and police at all times.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

JUSTICE G.SRI DEVI

13th June, 2019
Bvv

