

THE HON'BLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No.3295 of 2019

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973, is filed by the petitioner seeking to modify the order, dated 13.05.2019, to the extent of furnishing the surety imposed in CrI.M.P.No.1095 of 2019 on the file of VIII Additional Chief Metropolitan Magistrate, Hyderabad, by permitting the petitioner to furnish personal bond only.

2. Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. The petitioner is owner of Innova Car bearing registration No.AP-11-AK-6768, which was given to the accused on rent basis. On 03.04.2019, the *de facto* complainant came to the police station and lodged a report stating that one person by name Sherz Ahmed came to her house in an Innova car bearing No.AP-11-AK-6768 and collected an amount of Rs.50,000/- on the pretext of providing job to her and thereby cheated her. Hence, she prays to take necessary action against him. During the course of investigation, the police arrested the accused and seized the subject vehicle.

4. It is not in dispute that the petitioner filed an application before the Court below for interim custody of the vehicle in question. The Court below, after considering the material on record, passed impugned order. Operative portion of the order reads as follows:

“The material on record including remand report and also the seizure panchanama reveals that the said property

belongs to the petitioner and there is no dispute in this regard and no rival claim is made in this regard. The material on record further reveals that the investigation is completed and charge sheet not filed.

Hence it is just and proper to grant interim custody of the said property i.e., Innova Car bearing No.AP 11 AK 6768 to the petitioner on **executing personal bond for Rs.2,00,000/- (Two Lakhs Rupees only)** one surety subject to the following conditions:

- “1. The petitioner shall not pledge or sell away the said property.
2. The petitioner shall give an undertaking to produce the said property before the court as and when required by the court in the same condition and deposit original R.C.
3. Concerned police are directed to deposit the said Innova Car bearing No.AP 11 AK 6768 before the Court.”

5. Learned counsel for the petitioner would submit that the petitioner is owner of the subject vehicle and same was given to the accused on rental basis; that the petitioner is not involved in the subject crime, but he was cited as a witness (L.W.3); that the subject vehicle is only the source of income; that the petitioner is ready to execute the personal bond for a sum of Rs.2,00,000/-, and he need not produce surety as per the decision of this Court reported in **Vijay Mohan Shivhare v. State of Andhra Pradesh and another**¹.

6. Heard the learned counsel for the petitioner and perused the case law relied upon by the learned counsel for the petitioner.

7. A perusal of the said judgment reveals that the observations made therein are not mandatory in nature. Therefore, this Court did not find any merit in the prayer made by the petitioner. The

¹ 2009 (2) ALD (CrI.) 694 (AP)

petitioner has also not shown any justifiable ground to modify the impugned order passed by the Court below warranting interference of this Court. Therefore, the criminal petition is devoid of merit and is liable to be dismissed.

8. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in this petition shall stand closed.

JUSTICE G.SRI DEVI

JUNE 26, 2019

YVL



THE HON'BLE JUSTICE G.SRI DEVI



CRIMINAL PETITION No.3295 of 2019

Date:26.06.2019

YVL