

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE No.1287 of 2019

ORDER :

This Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. questioning the order dated 08.11.2019 in CrI.M.P.No.2983 of 2019 in Crime No.45 of 2019 passed by the Judicial First Class Magistrate, Alair, Nalgonda District, in dismissing the application filed by the petitioner for release of his vehicle i.e., Tata Hitachi Model Z Axis 370 LCH Excavator Machine, which was seized by the police in Crime No.45 of 2019 of Motakondur Police Station, Rachakonda, Nalgonda District, for the offences punishable under Sections 336, 188 r/w. Section 34 of IPC and Sections 3 and 4 of Explosive Substances Act, 1908.

The facts in issue are that the petitioner's vehicle i.e., Tata Hitachi Model Z Axis 370 LCH Excavator Machine along with other vehicles was seized by the police along with the accused persons while the same is being used in illegal blasting being conducted in a quarry in Sy.No.243, Kondapur Village outskirts, Motakondur Mandal, and Crime No.45 of 2019 of Motakondur Police Station, Rachakonda, Nalgonda District, was registered for the aforesaid offences. The petitioner claiming to be the owner of the said vehicle filed CrI.M.P.No.2983 of 2019 in Crime No.45 of 2019 before the learned Judicial First Class Magistrate, Alair, seeking interim custody of the vehicle. By the aforesaid order dated

08.11.2019, the learned Magistrate rejected the said application. Challenging the same the present revision is filed.

Learned counsel for the petitioner submits that the petitioner is owner of the said vehicle having purchased the same from Shriram Transport Finance Company Limited, Karimnagar, and the said vehicle is under hypothecation with the Financier and the Financier of the said vehicle has issued proof of Ownership Certificate and letter stating that they have no objection if the vehicle is released in favour of the petitioner as per law. It is also contended that the petitioner is not the accused in the above crime and his vehicle was used in the above blasting without his knowledge. It is further contended that there is every possibility of the vehicle getting damaged, if it is kept in the custody of police or Court and the Batteries of the said vehicle will become dry and useless, if they are not regularly put into use.

Learned Additional Public Prosecutor though opposed the revision, but did not dispute the ownership of the vehicle.

In ***Surenderbhai Ambalal Desai v. State of Gujarat***¹, 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 vehicles have to be entrusted to the interim custody of the petitioner subject to appropriate conditions.

¹ (2002) 10 SCC 283

Since there is no dispute with regard to the ownership of the vehicle and having regard to the principles of law laid down by the Apex Court in the decision stated supra, I am inclined to grant interim custody of vehicle i.e., Tata Hitachi Model Z Axis 370 LCH Excavator Machine seized in Crime No.45 of 2019 of Motakondur Police Station, Rachakonda, Nalgonda District, in favour of the petitioner on the following terms.

1. The petitioner shall execute a personal bond for Rs.10,00,000/- (Rupees ten lakhs only) with two sureties for a like sum each to the satisfaction of the Judicial First Class Magistrate, Alair, Nalgonda District.
2. 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 the physical features of the vehicle;
3. The petitioner shall also give an undertaking that the said vehicle will not be used for any purposes, particularly for illegal excavation of any land etc.

Accordingly, this Criminal Revision Case is disposed of. Consequently, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G. SRI DEVI

15.11.2019.
Msr

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Msr