

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.8016 of 2019

ORDER

The present Criminal Petition is filed under Section 482 Cr.P.C. questioning the order, dated 20.11.2019 passed in Crl.R.P.No.27 of 2019 by the VI Additional District and Sessions Judge, Siddipet.

2. The case of the prosecution is that on 03.09.2019 at 15.30 hours, on credible information, the Sub-Inspector of Police along with his staff proceeded to Shivam Shankaram Crusher Company situated at Ghanpur Village, and searched a lorry (Ashok Leyland) bearing No.TS-15-UB-1116, which was stopped in front of a crusher machine, and found explosive letters written in English and cotton boxes containing explosives. They also searched a room behind the van and found 10 other boxes containing electrical detonators, and on enquiry, the driver of the vehicle stated that his owner ordered him to transport the explosives in the said vehicle from Regency company at Bommala Ramaram to Shivam Shankaram Crusher Company at Toopran Mandal. The police seized the documents, explosives and also the vehicle and registered a case in Cr.No.116 of 2019 on the file of Toopran Police Station, Medak District, for the offence under Section 286 IPC and under Section 9(B)(1)(b) of Explosive Act and Section 5 of Explosive Substances Act. Thereafter, the petitioner claiming to be the owner of said lorry filed Crl.M.P.No.445 of 2019 before the Principal Junior Civil Judge-cum-Judicial Magistrate of First Class, Gajwel, seeking to return the same

for interim custody. By an order, dated 29.10.2019, the learned Magistrate dismissed the application. Challenging the same, the petitioner filed Crl.R.P.No.27 of 2019 and the same was also dismissed by the order impugned.

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

4. Learned Additional Public Prosecutor though opposed the application, did not dispute the ownership of the vehicle.

5. In ***Surenderbhai Ambalal Desai v. State of Gujarat***¹, the Apex Court held 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.

6. Since there is no dispute with regard to ownership of the vehicle and having regard to the principles of law laid down by the Apex Court in the decision cited supra, I am inclined to grant interim custody of lorry (Ashok Leyland) bearing No.TS-15-UB-1116, which was seized in Cr.No.116 of 2019 on the file of Toopran Police Station, Medak District, in favour of the petitioner on the following terms.

¹ (2002) 10 SCC 283

- i) The petitioner shall execute a personal bond for a sum of Rs.5,00,000/- (Rupees five lakhs only) with one surety for a like sum to the satisfaction of the Principal Junior Civil Judge-cum-Judicial Magistrate of First Class, Gajwel.
- ii) The petitioner shall deposit the original Registration Certificate of the vehicle before 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 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.

7. Accordingly, the Criminal Petition is disposed of. Consequently, miscellaneous petitions, if any pending, shall stand closed.

JUSTICE G. SRI DEVI

10th December, 2019

sj

