

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.8052 of 2019

ORDER :

This Criminal Petition is filed under Section 482 Cr.P.C. to quash the order, dated 04.12.2019 passed in Crl.M.P.No.76 of 2019 in Cr.No.245 of 2019 on the file of Judl. Magistrate of I Class, Ramannapet.

2. Heard the learned counsel for the petitioner-A1 and the learned Addl. Public Prosecutor representing the State.

3. The petitioner herein filed the above petition under Section 457 Cr.P.C. to give interim custody of seized Ammonia Nitrate of the quantity of 414 metric tons to him. The trial Court on considering the material on record, came to the conclusion that since the case property is explosive in nature and danger to human life, directed to shift the case property nearest arsenal in order to prevent the future life danger to the surrounding villagers. Hence, this Criminal Petition.

4. Learned counsel for the petitioner submits that the learned Magistrate in a routine manner disposed of the application without appreciating the issue in controversy. Hence, the order passed is an abuse of process of law and unsustainable. He further submits that the police cannot seize the stock for the offence u/s 9 (B) of the Explosives Act, more so, when the ingredients of Section 5 of the

Explosive Substances Act are not met. Hence, the seizure of stock is illegal and contrary to the provisions of Explosives Substances Act. He further submits that the stocks kept in the godown of the company is well stored with all precautions and the apprehension of prosecution that the property, which is explosive in nature may cause danger to human life to the near by villages is absurd and there are no villages existing round the factory. He further submits that the petitioner, who is the owner of the property is ready to abide by the conditions imposed by this Court and also ready to furnish sufficient guarantee for release of the property. Hence, he prays to release the stock in favour of the petitioner.

5. A perusal of the impugned order, it is observed that the Ammonia Nitrate of quantity of 414 Metric tons from 2 ware houses i.e., 239 metric tons in one ware house and 175 metric tons in another ware house was covered by licences, but the petitioner failed to produce the licence before the Court. It was further observed that as per amended Rules, the present storage limit is 1.5 metric tons per sq. meter, but the petitioner failed to produce any document in order to prove the same. It was further observed that since the S.H.O. of Chityala P.S. has filed requisition to shift the property, which is explosive in nature, the learned Magistrate directed to shift the property to the nearest arsenal to prevent danger to human life.

6. Taking into consideration the submissions made by the learned counsel for the petitioner and also on perusing the impugned order, I am of the view that the property shall be released to the interim custody of the petitioner.

7. Accordingly, the Judl. Magistrate of I Class, Ramannapet, is hereby directed to release 414.7 metric tons of Ammonia Nitrate near about 8294 bags in favour of the petitioner-A1 on his furnishing copies of licence and also copy of un-amended and amended Rules before the concerned Court. Further, the petitioner-A1 is directed to execute a personal bond for a sum of Rs.50,00,000/- (Rupees fifth lakhs only) with one third party surety to the satisfaction of the concerned Court.

8. With the above direction, the Criminal Petition is disposed of. Miscellaneous petitions, if any pending shall stand closed.

DATED: 11.12.2019.
Hsd

JUSTICE G.SRI DEVI

