

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.1290 of 2020

ORDER :

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash the order, dated 05.02.2020 in CrI.M.P.No.22 of 2020 in Cr.No.257 of 2019 on the file of the Addl. Judl. I Class Magistrate, Manthani.

2. The petitioner herein (owner of the property) filed the above CrI.M.P.No.22 of 2020 for grant of interim custody of the Lorry bearing No. TS30T0199 to him. The learned Magistrate, vide impugned order, dismissed the petition. Hence, this Criminal Petition.

3. Learned counsel for the petitioner submits that the petitioner is the owner of the vehicle having purchased the same under hire purchase agreement, dated 03.11.2016 and he has to pay monthly instalments. He further submits that for no fault of the petitioner, the vehicle is lying in the premises of the Police Station, Manthani. He further submits that if the vehicle is exposed to air, sun and rain, there is every possibility of the vehicle getting damaged and hence, seeks interim custody of the vehicle.

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

5. In **SURENDERBHAI AMBALAL DESAI V STATE OF GUJARAT** ¹, the Apex Court has laid down that in case of vehicle seized during investigation, it should not be allowed to deteriorate by being kept unused and unattended in the premises of the Police Station. Therefore, the vehicle has to be entrusted to the interim custody of the petitioner subject to certain conditions.

6. Since there is no dispute with regard to the ownership of the vehicle and having regard to the principles laid down by the Apex Court in the decision stated supra, I am inclined to grant interim custody of the Lorry bearing No.TS30T0199, which was seized in Cr.No.257 of 2019 of Kataram Police Station, in favour of the petitioner on the following conditions:

1. The petitioner shall execute a personal bond for a sum of Rs.15,00,000/- (Rupees fifteen lakhs only) with one surety for a like sum to the satisfaction of the Addl. Judl. I Class Magistrate, Manthani.
2. The petitioner shall deposit the original Registration Certificate of the vehicle in 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.
3. The petitioner shall give an undertaking to produce the vehicle as and when required either by the Investigating Agency or by the Court and also give an undertaking that he will not alienate, encumber or alter the physical features of the vehicle.
4. If it is found that the vehicle was involved in similar type of offence, the custody of the vehicle, which is being given to the petitioner shall be automatically revoked and the vehicle shall be taken into custody by the concerned police.

¹ (2002) 10 SCC 283

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

JUSTICE G.SRI DEVI

DATED: 24.02.2020.
Hsd



