

THE HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.1381 of 2020

ORDER:-

The present criminal petition is filed under Section 482 Cr.P.C., challenging the order dated 04.02.2020 passed in Crl.M.P.No.85 of 2020 in Cr.No.389 of 2019 by the learned Special Sessions Judge for the Trial of Cases under Narcotic Drugs and Psychotropic Substances Act-cum-I Additional Sessions Judge, Khammam, whereby the application filed by the petitioner seeking to grant interim custody of Bajaj Auto bearing No.TS-28T-9306 was dismissed.

2. The brief facts of the case are that the petitioner is owner of the aforesaid vehicle, which was seized in connection with Crime No.389 of 2019 on the file of Bhadrachalm Town Police Station, under a cover of panchanama, and the said vehicle was kept in the said Police Station. During pendency of investigation, the petitioner claiming to be the owner of said vehicle filed the aforesaid application for interim custody and the same was dismissed. Hence, the present criminal petition.

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

4. Learned Additional Public Prosecutor though opposed the criminal petition, did not dispute the ownership of petitioner in respect of the subject vehicle.

5. In ***Surenderbhai Ambalal Desai v. State of Gujarat***¹, the Apex Court has laid down that the vehicles seized during investigation should not be allowed to deteriorate by being kept unused and unattended in the premises of the Police Stations and the same have to be entrusted to the interim custody of their owners subject to appropriate conditions.

6. Since there is no dispute with regard to ownership of the aforesaid 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 Bajaj Auto bearing registration No.TS-28T-9306, seized in Crime No.389 of 2019 on the file of Bhadrachalam Town Police Station, in favour of the petitioner on the following terms:-

- i) The petitioner shall execute a personal bond for Rs.1,00,000/- (Rupees One lakh only) with one surety for a like sum to the satisfaction of the learned Special Sessions Judge for Trial of Cases under Narcotic Drugs and Psychotropic Substances Act-cum-I Additional Sessions Judge at Khammam.
- ii) The petitioner shall deposit the original Registration Certificate of the said 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 said vehicle.
- iii) 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 said vehicle.

¹ (2002) 10 SCC 283

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

JUSTICE G. SRI DEVI

26th February, 2020

sj

