

HONOURABLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.598 of 2020

ORDER:

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. questioning the order, dated 09.12.2020 passed in Crl.M.P.No.343 of 2020 in Crime No.230 of 2020 on the file of the Judicial Magistrate of First Class, Husnabad.

2. The facts in issue are that the petitioner/accused is the owner of the Mini Tipper bearing No.TS 12 UB 2349 and the said vehicle was seized in Crime No.230 of 2020 of Husnabad Police Station, which was registered for the offences punishable under Section 379 IPC and Section 3 of P.D.P.P. Act, and the said vehicle was kept in the police station. During the pendency of investigation, the petitioner, claiming to be the owner of the said vehicle, filed Crl.M.P.No.343 of 2020 before the Judicial Magistrate of First Class, Husnabad, seeking interim custody of the vehicle. By an order, dated 09.12.2020, the learned Judge dismissed the application. Challenging the same the present revision is filed.

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

4. Learned Additional Public Prosecutor, though opposed the revision, 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 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.

6. 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 Mini Tipper bearing No.TS 12 UB 2349, which was seized in Crime No.230 of 2020 of Husnabad Police Station, in favour of the petitioner on the following terms.

- i) The petitioner shall execute a personal bond for Rs.50,000/- (Rupees fifty thousand only) with two sureties for a like sum to the satisfaction of the Judicial Magistrate of First Class, Husnabad.
- ii) The petitioner shall deposit the original Registration Certificate of the vehicle in the Court below. However, the Court below 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 before 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 Revision Case is disposed of.

Miscellaneous petitions, if any, shall stand closed.

JUSTICE P. KESHA RAO

Date: 18.12.2020
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¹ (2002) 10 SCC 283