

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE NO.1446 OF 2019

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure questioning the order dated 24.04.2019 in CrI.MP.No.73 of 2019 on the file of the Judicial Magistrate of First Class at Nalgonda, in dismissing the application filed by the petitioner for release of his vehicle i.e., Tractor bearing No.AP-24-R-8263, which was seized by the police in Crime No.1 of 2019 of P.S. Kangal, Nalgonda District, for the offences punishable under Sections 307 and 506 read with Section 34 of the Indian Penal Code.

The facts in issue are that the petitioner's vehicle i.e., Tractor bearing No.AP-24-R-8263 seized by the police while arresting him in Crime No.1 of 2019 of P.S. Kangal for the aforesaid offences. The petitioner, claiming to be the owner of the said vehicle, filed CrI.MP.No.73 of 2019 in Crime No.1 of 2019 before the Judicial Magistrate of First Class at Nalgonda, seeking interim custody of the vehicle. By the order dated 24.04.2019, the learned Magistrate rejected the said application. Challenging the same, the present revision is filed.

Learned counsel for the petitioner submits that the vehicle is of no use for the police and it gathers rust and would be damaged. It is further submitted that the petitioner is the owner of the said vehicle and it is the livelihood to him and all his agricultural operations have struck down as the same was not returned to him. It is further submitted that the Court below can impose any

suitable conditions but mere reject is not correct and no person could be punished by his earnings. It is further contended that there is every possibility of the vehicle getting damaged, if it is kept exposed to air, sun and rain, if it is kept in the custody of police or Court.

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

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.

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 the vehicle, Tractor bearing No.AP-24-R-8263, seized in Crime No.1 of 2019 of P.S. Kangal, Nalgonda District, 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 Judicial Magistrate of First Class at Nalgonda.
- (ii) The petitioner shall give an undertaking to produce the said vehicle as and when required

¹ (2002)10 SCC 283

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.

Accordingly, this Criminal Revision Case is disposed of.

Miscellaneous applications, if any, pending shall stand closed.

5th February 2020
RRB

(G. SRI DEVI, J)

