



CNR: KAHC010816972025

NC: 2026:KHC:55035
WP No. 38640 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 38640 OF 2025 (EXCISE)

BETWEEN:

M. G. LOHIT KUMAR
S/O GOVINDAPPA,
AGED ABOUT 54 YEARS,
R/AT KODAGAVALLI HOLALKERE TALU,
CHITRADURGA DISTRICT- 577 526

...PETITIONER

(BY SRI/SMT.G.K.BHAT, ADVOCATE ALONG WITH
SMT.SUDHA D., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY SUB INSPECTOR OF POLICE
HOLALKERE POLICE STATION,
HOLALKERE,
CHITRADURGA DISTRICT -577 526

2. DEPUTY COMMISSIONER OF EXCISE
AND AUTHORIZED OFFICER,
CHITRADURGA DISTRICT,
CHITRADURGA - 577 501

...RESPONDENTS

(BY SRI.MANJUNATH K., HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO
DIRECTING THE RESPONDENTS NO.1 AND 2 TO IMMEDIATELY
RETURN THE MOTOR VEHICLE BEARING REGISTRATION
NO.KA16P5094 TO THE CUSTODY OF THE PETITIONER.

Digitally signed
by SUVARNA T
Location:
HIGH COURT
OF
KARNATAKA



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THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The present writ petition is filed seeking the following prayer:

"Wherefore, it is prayed that this Hon'ble Court may be pleased to:

a) Issue a writ of mandamus, any other appropriate writ order or direction, directing the respondent Nos.1 and 2 to immediately return the motor vehicle bearing registration No.KA.16-P-5094 to the custody of the petitioner.

b) Issue an appropriate writ order or direction to the effect that the seizure and detention of the motor vehicle bearing registration No.KA.16-P-5094 from the petitioner is illegal and without jurisdiction.

c) Issue any other appropriate writ order or direction as the Hon'ble Court deemed fit to be granted under the facts and circumstances of the case to meet the ends of justice."

2. It is the case of the petitioner that the petitioner is the registered owner of the motor vehicle bearing registration No. KA.16-P-5094, a private transport vehicle. The respondent police registered a case in Crime No.0361/2023, alleging commission of offenses punishable under Sections 32 and 34 of



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the Karnataka Excise Act, 1965 (for short, 'the Act'). The crime was also reported to the Jurisdictional Magistrate, Senior Civil Judge, and JMFC, Chitradurga, at 03:00 p.m. on 15.11.2023. The police have completed the investigation and submitted a final report on 23.09.2024, which is registered as C.C. No. 538/2024. It is the case of the petitioner that the vehicle was seized by respondent No. 1 in the year 2023. Till now, the vehicle is lying before the police station, and the respondent has failed to comply with Section 43-A of the Act. Hence, having no other go, the petitioner is constrained to come before this Court.

3. The learned Senior counsel representing the counsel for the petitioner had drawn the attention of this Court to Section 43-A of the Act and submits that, upon confiscation of the vehicle, Section 43-A of the Act mandates that respondent No.2, after seizing and detaining the property, has to produce it without any reasonable delay before an officer not below the rank of Superintendent of Excise. It is submitted that, in none of the cases, the respondents are following the procedure as contemplated under Section 43-A of the Act and



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making the persons to rush to this Court. It is further submitted that the petition may be allowed by directing the respondents to release the vehicle forthwith.

4. Learned HCGP, who takes notice on behalf of the respondents, submits that they have now filed the final report and are taking all steps to produce the vehicle before the Deputy Commissioner of Excise. The petitioner can approach the second respondent and seek release of the vehicle in accordance with law. It is submitted that, without notice, the petitioner can appear before the Deputy Commissioner on 12.10.2026.

5. Having heard learned Senior Counsel representing the learned counsel for the petitioner and learned HCGP for the State, perused the material on record. Before proceeding with the matter, it is appropriate to look at Section 43-A of the Karnataka Excise Act, which reads as follows:

"43-A. Confiscation by Excise Officers in certain cases.-

(1)Notwithstanding anything contained in this Act or in any other law for the time being in force, where anything liable for confiscation under section 43 is seized or detained under the



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provisions of this Act, the officer seizing and detaining such property shall, without any reasonable delay, produce the same before an officer not below the rank of a Superintendent of Excise authorised by the Government in this behalf by notification (hereinafter referred to as the authorised officer)"

(2) On production of the seized property under sub-section (1), the authorised officer, if satisfied that an offence under this Act has been committed may, whether or not a prosecution is instituted for the commission of such offence, order confiscation of such property:

[Provided that the authorised officer may pending final disposal of the proceedings in respect of the property seized under sub-section (1) and subject to this section and sections 43B to 43G,-

(i) release the seized property except excisable articles to the owner of such property;

(ii) release the seized excisable articles to their owner if he possesses a licence under the Act or the rules made thereunder;

On production of a Bank Guarantee issued from a Scheduled Bank for a sum equal to the value as estimated by the authorised officer, (which shall be renewable by him from time to time till final disposal of such proceeding) and on execution by the owner thereof a bond for production of such property or as the case may be, excisable articles so released, if and when so required, before the authorised officer.]

(3) When making an order of confiscation under sub-section (2), the authorised officer may also order that such of the properties to which the order of confiscation relates, which in his opinion cannot be preserved or are not fit for human consumption, be destroyed.



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(4) Where the authorised officer after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may order the confiscated property or any part thereof to be sold by public auction.

(5) Where any confiscated property is sold as aforesaid, the proceeds thereof, after deduction of the expenses of any such auction or other incidental expenses, relating thereto, shall, where the order of confiscation made under this section is set aside or annulled by an order under section 43D or 43E, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order."

6. The vehicle was seized as long back as on 15.11.2023. It is the submission of the learned HCGP that the vehicle will now be produced before the Deputy Commissioner. When the rule contemplates that it has to be produced immediately after the seizure, why it has not been produced before the concerned authority for more than 3 years is not known. It is a blatant violation of Section 43-A of the Act. They cannot seize the vehicles and keep them at the police station, and by the time they take steps to release the vehicle, the vehicle would not be in a position to be utilized. It is submitted that it has already been produced before the second respondent. This Court deems it appropriate to dispose of the writ petition. At the same time, the Additional Chief Secretary,



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Finance Department, shall issue necessary instructions to the concerned authority for strict compliance with Section 43-A of the Karnataka Excise Act. Accordingly, this Court is passing the following:

ORDER

- i. The petitioner shall appear before the second respondent on 12.10.2026 without further notice, and the second respondent shall pass orders in accordance with law.
- ii. The Additional Chief Secretary, Finance Department, shall issue necessary directions within a period of four weeks to all concerned regarding compliance of Section 43-A of the Act.
- iii. The Registrar (General) shall communicate this order to the Additional Chief Secretary of the Finance Department.
- iv. Once the necessary directions are issued within four weeks from the date of receipt of copy of the order, the copy shall be communicated to the Registrar (General) and, in turn, he shall place it before this Court.



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- v. Accordingly, the writ petition is ***disposed of.***
- vi. All pending I.As., in the petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

PKN
List No.: 1 Sl No.: 1