

-
HON'BLE SRI JUSTICE R. KANTHA RAO

-
Writ Petition No.3943 of 2015

-
ORDER:

This writ petition is filed seeking writ of *Mandamus* declaring the action of the respondents in detaining the vehicle-lorry of the petitioner bearing No.TN 22 CU 1599 under confiscation order dated 10.04.2014 by the 3rd respondent, as illegal and arbitrary and for consequential direction to the respondents to release the lorry to the petitioner forthwith.

2. Heard Sri P. Harinath Gupta, learned counsel for the petitioner and the learned Government Pleader for Forests.

3. The petitioner is said to be the owner of the lorry bearing No.TN 22 CC 1599. The said vehicle was seized by the 3rd respondent on the ground that it was used in the transportation of red sander logs. The petitioner approached the 3rd respondent for release of the vehicle but in vain. Aggrieved by the seizure, he preferred an appeal to the 2nd respondent seeking interim custody of the lorry but the 2nd respondent neither released his lorry nor disposed of his appeal

4. Learned senior counsel submits that the vehicle was not in fact involved in any forest offences and in any event, the petitioner who is the owner of the vehicle has absolutely no knowledge about the offences alleged. The vehicle has been kept idle for the last nine months and it is being deteriorated in value and condition. He relied upon a decision in '***Sunderbhai Ambalal Desai vs. State of Gujarat***'^[1], wherein the Supreme Court held as follows:

“...Whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of

the said vehicles, if required at any point of time. This can be done pending hearing of application for return of such vehicles.”

5. Learned senior counsel further submits that unless the vehicle is released to the interim custody of the petitioner, the vehicle would be damaged which ultimately results in irreparable loss to the petitioner.

6. On the other hand, learned Government Pleader for Forests argued that since the vehicle was involved in transportation of red sandar logs, which is a serious forest offence, the vehicle is liable to be confiscated and it shall not be given to the interim custody of the petitioner. In support of his contention, he relied upon a decision in *‘State of Karnataka vs. K. Krishnan’*^[2], wherein the Supreme Court held as follows:

“When any vehicle is seized on the allegation that it was used for committing a forest offence, the same shall not normally be returned to a party till the culmination of all the proceedings in respect of such offence, including confiscatory proceedings, if any. Nonetheless, if for any exceptional reasons a court is inclined to release the vehicle during such pendency, furnishing a bank guarantee should be the minimum condition. No party shall be under the impression that release of vehicle would be possible on easier terms, when such vehicle is alleged to have been involved in commission of a forest offence. Any such easy release would tempt the forest offenders to repeat commission of such offences. Its casualty will be the forests as the same cannot be replenished for years to come.

7. Having gone through the judgments relied upon by the learned counsel for the petitioner as well as the learned Government Pleader for Forests, it can be understood that the vehicle which was involved in a forest offence cannot be ordinarily released and it can be released only under exceptional circumstances. On the other hand, it is also the view expressed by the Supreme Court that even if the vehicle involved in the forest office, it is of no use to keep the vehicle idle with the police or Forest Department and the vehicle can be

released with a direction to produce before the Court or the Authority at any point of time on furnishing sufficient security.

8. In the instant case, the trial of the case is not likely to be commenced in the near future. The vehicle has already been lying idle since nine months. When the Court is of the opinion that on account of delay in trial or other proceedings relating to the forest offence the vehicle would be damaged, an order directing interim custody of the vehicle has to necessarily be passed.

9. Under these circumstances, the petitioner is directed to make an application before the Divisional Forest Officer-the 2nd respondent, seeking interim custody of the vehicle and that on making such application by the petitioner, the 2nd respondent is directed to pass appropriate orders regarding interim custody of the vehicle on condition of the petitioner producing the vehicle as and when directed and also on other conditions relating to security to be furnished as the Authority deems fit and proper.

10. With the above observation, the writ petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

R. KANTHA RAO, J

Date: 24.02.2015
Note:
Issue CC in two days
(BO)
BSS

HON'BLE SRI JUSTICE R. KANTHA RAO

URGENT

-
-
Writ Petition No.3943 of 2015

Date: 24.02.2015

-
BSS

[\[1\]](#) (2002) 10 SCC 283

[\[2\]](#) AIR 2000 SC 2729(1)