

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.4808 OF 2015

Date:27.02.2015

Between:

Gulla Naga Raju

.. Petitioner

And

The Sate of Telangana, rep., by its
Principal Secretary for Prohibition and
Excise Secretariat, Hyderabad and others

.. Respondents

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.4808 OF 2015

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition and Excise appearing for the respondents.

The petitioner's vehicle bearing registration No.AP 20TA 8900 is said to have been involved in an offence under Section 34 (e) of the Andhra Pradesh Excise Act, 1968 (for short, 'the Act') vide P.R.No.422/2014-15 before the 4th respondent. The petitioner alleges that the offence itself is not made out as the petitioner was alleged to be found in carrying white jaggery and there can be no registration of crime with regard to the white jaggery and he also states that he is having requisite permit. Hence, the very seizure as well as the registration of crime, according to the learned counsel for the petitioner, is not sustainable.

In this Writ Petition, however, the petitioner seeks release of the vehicle in terms of the decision of this Court reported in ***Banavathu Babu v. Government of A.P., rep., by its Principal Secretary, Revenue (Excise) Department.***^[1]

It is evident from the record that the petitioner has not made any application for release of the vehicle by approaching the 3rd respondent under Section 46 (e) of the Act. It is the

3rd respondent, who has to exercise power for release of the vehicle pending adjudication of the crime and not the regular criminal Court. Unless the petitioner approaches the 3rd respondent, he cannot seek the relief of release of the vehicle.

Hence, this Writ Petition is disposed of giving liberty to the petitioner to approach the 3rd respondent by appropriate application. It is made clear that if the petitioner makes such an application, the 3rd respondent shall consider the same expeditiously, preferably within three days and pass appropriate orders, including imposition of suitable conditions, if he considers release of the vehicle. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

VILAS V. AFZULPURKAR, J

27.02.2015
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[\[1\]](#) 2015 (1) ALT 414