

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.40947 OF 2016

ORDER:

The writ petition is filed by the petitioners seeking a writ of mandamus declaring the action of the third respondent in seizing the vehicle i.e., Hero Honda Splendor Motor Cycle bearing Reg.No.AP 24 AQ 5335, net cash of Rs.12,200/- and two Nokia phones under cover of Panchanama, in F.I.R.No.272 of 2016, as illegal and arbitrary, and consequently to direct the third respondent to release the above said vehicle, net cash and two nokia phones.

Heard and perused the material.

Learned counsel for the petitioner submits that there is no provision in the Excise Act for return of the property, once seized in the crime, either by the trial Court or by the second respondent and as such, he approaches this Court under Article 226 of the Constitution of India.

Considering the facts and circumstances, it is directed that the vehicle i.e., Hero Honda Splendor Motor Cycle bearing Reg.No.AP 24 AQ 5335 only shall be released to the petitioner for interim custody, subject to final orders to be passed in the main case, on his executing a personal bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with one surety for a like sum to the satisfaction of the learned Magistrate concerned, and subject to production of all the documents relating to the vehicle in question. The petitioner shall also give an undertaking not to sell, alter or alienate the said vehicle and produce the same as and when directed by the trial Court. However, this Order does not preclude the authorities concerned from proceeding with the confiscation proceedings.

The writ petition is accordingly disposed of. Consequently, miscellaneous petitions, if any shall also stand disposed of.

JUSTICE RAJA ELANGO

25.11.2016
pln