

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 41144 OF 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking to declare the action of the 2nd respondent in not releasing the Mahindra Bolero Pick UP Van bearing REg.No.TS 01 UB 3567 seized in Crime NO.94 of 2016 in spite of the readiness of the petitioner to furnish the third party surety, as illegal and arbitrary.

Heard and perused the material available on record.

The case of the petitioner is that the petitioner is the registered owner of Mahindra Bolero Pick up Van bearing No.TS 01 UB 3567. Petitioner was running a small kirana shop at Kalwada Village and for the purpose of business he purchased the kirana items from the wholesalers and sell the same to the retailers. During the course of his business, he sold 400 kgs of Jaggery to a customer and loaded the same in the vehicle and when it reached Tekulapally Village, the 2nd respondent intercepted the vehicle and in a routine and mechanical manner, seized the vehicle along with the stocks and registered a case in Crime No.94 of 2016 under Section 34(e) of the A.P. Excise Act, 1968.

Learned counsel for the petitioner submits that if the vehicle is exposed to sun and rain and is kept idle, it would be damaged. He further submits that the petitioner is ready and willing to furnish security for release of the vehicle and also produce the vehicle as and when required by the concerned Magistrate.

Learned Government Pleader also submitted that interim custody of the crime vehicle can be granted to the petitioner by imposing certain conditions.

Considering these circumstances, it is directed that vehicle i.e. Mahindra Bolero Pick UP Van bearing Reg.No.TS 01 UB 3567 seized in Crime No.94 of 2016 shall be released for interim custody of the petitioner, subject to final orders to be passed at the time of disposal of main case, on his executing a personal bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties for the like sum each and also on production of original R.C. book. It is further directed that the petitioner shall not alienate the vehicle and shall not change the physical features of the same till the disposal of the criminal case and further he shall undertake to produce the vehicle as and when required by the concerned Magistrate. The said order will not stand in the way of the confiscation proceedings.

The Writ Petition is accordingly disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

JUSTICE CHALLA KODANDA RAM

November 28, 2016
LMV