

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.16183 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the order dated 09.09.2016 passed in CrI.M.P.No.2451 of 2016 in PCOR No.124 of 2016 on the file of the Additional Judicial Magistrate of First Class at Kalwakurthy and to release the vehicle TATA ACE bearing No.AP 22 TV 1480.

The petitioner allegedly committed an offence under Section 34 (e) of A.P. Excise Act and filed CrI.M.P.No.2451 of 2016 for release of the vehicle bearing No.AP 22TV 1480 before the Additional Judicial Magistrate of First Class at Kalwakurthy, which was dismissed with a direction to approach the Deputy Commissioner, Prohibition and Excise State at Mahabubnagar, who is the competent authority to release the vehicle under the provisions of the Act. Accordingly, the petitioner filed a petition before the Deputy Commissioner, while the Deputy Commissionr ordering release of the vehicle directed the petitioner to furnish FDR for Rs.1,60,000/- with a condition that in case the petitioner failed to produce the vehicle as and when directed, the said FDR shall be forfeited.

Learned counsel for the petitioner contended that the condition imposed by the Deputy Commissioner for release of the vehicle is arbitrary and exorbitant and it is difficult for the petitioner to furnish FDR and requested to modify the said condition to that of submitting personal bond for Rs.1,60,000/-.

Such relaxation cannot be granted by this Court as the

Deputy Commissioner exercised his jurisdiction within his limits.

However, considering the facts and circumstances of the case, I find that it is a fit case to modify the said condition of submitting F.D.R. to that of furnishing bank guarantee for Rs.1,60,000/-.

Accordingly, the petitioner is directed to furnish bank guarantee for Rs.1,60,000/- instead of F.D.R, before the Additional Judicial Magistrate of First Class at Kalwakurthy for release of the vehicle, in the event of failure to produce the vehicle as directed by Court during trial or appeal, if any, the Court concerned is entitled to invoke bank guarantee. On furnishing the same the Magistrate shall act upon and direct the officials concerned to release the vehicle after obtaining undertaking that he shall not sell, transfer or alienate the vehicle in favour of third parties.

With the above directions, the petition is disposed of. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:22.11.2016
Ksp