

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.44847 of 2016

ORDER:

This writ petition is filed by the petitioner under Article 226 of the Constitution of India seeking to declare the action of the 4th respondent in seizing the petitioner's vehicle Ashok Leyland Dosth Model trolley bearing Temporary Registration No.TS 03 KTR 1699, Chassis No.MV 1AA 22R 8GRD 27186, Engine No.DGH 016685P, together with 1250 kgs of rice in 25 bags each 50 kgs. in Crime No.126 of 2016, on the file of Gudur Police Station, Warangal (Rural) District, as illegal and arbitrary and consequently direct the 4th respondent to release the aforesaid vehicle together with rice seized in Crime No.126 of 2016.

Heard and perused the material available on record.

The case of the petitioner is that the *de facto* complainant, B. Venkateshwarlu, Head Constable of Gudur Police Station, lodged the present complaint alleging that on 13.10.2016 at 22.00 hours at Appoor Village of Gudur Mandal, seized 25 bags of PDS Rice each bag containing 50 kgs., total 1250 kgs of Public Distribution Rice from A-1 to A-3. Based on the said complaint, the 4th respondent registered a case in Crime No.126 of 2016, against three persons i.e., A-1 to A-3 for the offences under Section 420 IPC and Section 7 of the Essential Commodities Act, 1955, and that the 4th respondent also completed investigation in the above said crime and filed charge sheet against the accused and the same is numbered as C.C.No.126 of 2016, on the file of the Judicial Magistrate of First Class, Narsampet, Warangal (Rural) District and the same is pending. As far as the petitioner is concerned, he is not arrayed as an accused in

the above said crime. The grievance of the petitioner is that he is the owner of the above mentioned vehicle and that he has given the vehicle to A-1 and A-2 for hire and A-3 is the driver of the said vehicle and that the petitioner is not aware of transportation of PDS rice by the accused in his vehicle and that without knowing the intention of the accused, the petitioner gave the vehicle on hire basis to the accused, on their request.

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 the said facts and circumstances, it is directed that the vehicle i.e., Ashok Leyland Dosth Model trolley bearing Temporary Registration No.TS 03 KTR 1699, Chassis No.MV 1AA 22R 8GRD 27186, Engine No.DGH 016685P, 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, 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.

Accordingly, the Writ Petition is disposed of. No costs.
Pending Miscellaneous Petitions, if any, shall stand closed.

RAJA ELANGO, J

Date: 22nd December, 2016

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