

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.30836 OF 2016

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the action of the second respondent in seizing the Auto bearing No. TS 05 UA 0574 (Goods Carriage-LMV) of the petitioner, as illegal and arbitrary.

2. Heard the learned counsel for the petitioner, the learned Assistant Government Pleader for Civil Supplies appearing for respondent No.1, and the learned Assistant Government Pleader for Home appearing for respondent No.2.

3. The petitioner claims to be the owner of the Auto bearing No. TS 05 UA 0574 (Goods Carriage-LMV). A perusal of the record reveals that on 13.06.2016 the second respondent seized the Auto alleging that the petitioner was transporting PDS rice without any permission whatsoever. The second respondent registered a case in Crime No.59 of 2016 under Sections 406 and 420 I.P.C., and Section 7 of the Essential Commodities Act, 1955 against the petitioner.

4. Whether the petitioner was transporting the rice knowing fully well that it is PDS rice or not is purely a disputed question of fact, which can be decided during the course of trial only. If this Court expresses any opinion on that aspect, the same may cause prejudice to one of the parties to the proceedings. If the vehicle is kept under the custody of the second respondent till disposal of the case, the same may cause irreparable loss and hardship to the

petitioner. So also, if the vehicle is released unconditionally, it may not be possible for the respondents to take appropriate action against the petitioner in the event of the vehicle being liable for confiscation or fine.

5. At the time of arguments, the only relief sought by the learned counsel for the petitioner is to direct the second respondent to release the vehicle on furnishing a bank guarantee by the petitioner. The learned Assistant Government Pleaders appearing for the respondents also consented for the same.

6. Having regard to the facts and circumstances of the case and also the submissions made by learned counsel for both parties, the second respondent is hereby directed to release the Auto bearing No.TS 05 UA 0574 (Goods Carriage-LMV) in favour of the petitioner on his furnishing a bank guarantee for an amount of Rs.50,000/- (Rupees Fifty Thousand only). The petitioner is directed to file an undertaking before the second respondent that he will not create any third party interest over the vehicle in question, he will not alter the nature of the vehicle till disposal of the case and that he will produce the same as and when required before the authorities.

7. With the above directions, the Writ Petition is disposed of. No costs.

8. Consequently, Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. No costs.

T.SUNIL CHOWDARY, J

Date: 14.09.2016
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