

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.18018 of 2017

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking to release the vehicle of the petitioner i.e., Indica DLS Car bearing Registration No.AP 20AE 0289 seized in C.O.R.No.15 of 2017, on the file of the Station House Officer, Thorur Prohibition and Excise Police Station, Mahabubabad District.

2. Heard and perused the material available on record.

3. On 16.01.2017, when the vehicle of the petitioner i.e., Indica DLS Car bearing Registration No.AP 20AE 0289 reached near Ammapuram Road, Thorur Village, the 3rd respondent stopped and checked and demanded to show the documents pertaining to the vehicle and when the petitioner shown the documents, the 3rd respondent demanded to pay the amount and when the petitioner refused, the 3rd respondent seized the above said vehicle and registered a case in C.O.R.No.15 of 2017 under Section 34(e) of the A.P. Excise Act, 1968, by implanting 2 bags of black jaggery and 10 kgs of alum.

4. Learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle and that the 3rd respondent intentionally implanted 2 bags of black jaggery and 10 kgs of alum in the vehicle and seized the vehicle of the petitioner and implicated him as accused, but in fact, no such jaggery or alum were found in the vehicle of the petitioner. Learned counsel

further submitted that if the vehicle is kept idle for a long period, there is every possibility of it getting damaged. He further submitted that the petitioner is ready to furnish sufficient surety and also produce the vehicle as and when required by the Court.

5. Learned Government Pleader for Excise for respondents objected for the same since the vehicle is involved in a crime.

6. Considering these circumstances, the petitioner is directed to make an application before the concerned Deputy Commissioner of Prohibition and Excise enclosing thereto a Fixed Deposit Receipt (FDR) drawn in favour of the Deputy Commissioner on any nationalized bank for a sum of Rs.1,00,000/- (Rupees one lakh only) and on such application being made, the vehicle i.e., Indica DLS Car bearing Registration No.AP 20AE 0289 shall be released for interim custody of the petitioner subject to final orders to be passed in the above crime 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 crime and further, he shall undertake to produce the vehicle as and when required by the Court. However, it is made clear that the present order will not stand in the way of any confiscation proceedings. If already confiscation orders are passed, the order need not be given effect to.

7. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

RAJA ELANGO,J

Date: 7th June, 2017

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