

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.23796 of 2017

ORDER:

This Writ Petition is filed by the petitioner under Article 226 of the Constitution of India seeking to declare the action of the 2nd respondent in not releasing the Ashok Leyland Mini Truck bearing Registration No.AP-29-W-1285 seized in C.O.R.No.36/2017 in spite of the readiness of the petitioner to furnish the third party surety, as being illegal, arbitrary and unjust, and consequently direct the 2nd respondent to release the vehicle.

2. Heard learned counsel for both the parties and perused the material available on record.

3. The case of the petitioner is that the petitioner is the registered owner of Ashok Leyland Mini Truck bearing Registration No.AP-29-W-1285. On 27.03.2017, the petitioner's vehicle has been engaged for transportation of white jaggery on payment of hire charges and when the said vehicle reached Penimella of Uppununthala, the 3rd respondent intercepted the said vehicle and found plastic bags containing white jaggery and seized the said vehicle and registered a case in C.O.R.No.36 of 2017 under Section 34(e) of the A.P. Excise Act, 1968, by mentioning that the said vehicle is transporting black jaggery and alum and that the vehicle is in the custody of the 3rd respondent.

4. Learned counsel for the petitioner submits that the 3rd respondent has seized the vehicle on the ground that it is transporting black jaggery and alum, but in fact, there was white jaggery and no alum was found in the said vehicle and 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.

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

6. Considering these circumstances, the petitioner is directed to make an application before the 2nd respondent and on such application being made, the vehicle i.e., Ashok Leyland Mini Truck bearing Registration No.AP-29-W-1285 shall be released for interim custody of the petitioner, subject to final orders to be passed in the criminal case, on his executing a personal bond for Rs.50,000/- (Rupees fifty thousand only) with one surety for the like sum 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. 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. Accordingly, the Writ Petition is disposed of. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.

RAJA ELANGO,J

Date: 19th July, 2017

KL



201**THE HONOURABLE SRI JUSTICE RAJA ELANGO****WRIT PETITION No.23796 of 2017**Date: 19th July, 2017

KL