

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.19401 of 2017

ORDER:

The petitioner filed this Writ Petition by invoking the provisions under Article 226 of the Constitution of India, seeking to declare the action of the respondents in foisting a false case and seizing the petitioner's Tata Indigo car bearing No.AP 28 TV 7693, without any notice, in COR No.57 of 2017, dated 21.05.2017, for the offence under Section 34(e) of the A.P. Excise Act, as illegal and arbitrary, and consequently, direct the respondents to release the petitioner's vehicle.

Heard and perused the material available on record.

The respondents seized the vehicle of the petitioner i.e. Tata Indigo Car bearing registration No. AP 28 TV 7693 on the ground it was used for transporting 400 kgs., of black jaggery and 25 kgs., of Patika and registered case in COR No.57 of 2017 for the offence under Section 34 (e) of the A.P. Excise Act.

Learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle and that the respondents have seized the vehicle falsely and they did not give any notice about the seizure of the vehicle and 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.

Learned Assistant Government Pleader for Prohibition & Excise objects for the same, since the vehicle is involved in a crime.

Considering these circumstances, the petitioner is directed to file an application before the 3rd respondent – Deputy Commissioner, Prohibition & Excise, Mahaboobnagar, to release the vehicle and on such application being filed, the 3rd respondent is directed to release the vehicle of the petitioner i.e. Tata Indigo Car bearing No.AP 28 TV 7693 for interim custody of the petitioner, subject to final orders to be passed in the criminal case, on petitioner furnishing a bank guarantee for Rs.1,00,000/- (Rupees one lakh 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 disposal of the criminal case and further the petitioner 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.

With the above directions, the Writ Petition is disposed of. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

June 15, 2017.

KTL

RAJA ELANGO, J