

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.9964 OF 2017

ORDER:

This Writ Petition is filed by the petitioner seeking to issue a writ of mandamus to declare the action of the respondents 2 and 3 in not releasing petitioner's vehicle i.e., Mahindra Bolero bearing Registration No.TS 06 UA 9717 of 10/ 2015 model in favour of the petitioner on his representation dated 14.02.2017 even pending disposal of the case before the 2nd respondent, as illegal and arbitrary, and consequently, direct the respondents 2 and 3 to release the vehicle of the petitioner.

It is the case of the petitioner that the petitioner is doing transportation business and he has not participated in the commission of excise offence and he being an innocent transporter who purchased the vehicle for eking out his livelihood on obtaining loan. On 07.02.2017, the 3rd respondent along with his staff stopped the petitioner's vehicle and conducted inspection and seized the vehicle and the stock of black jaggery in 25 bags each 50 kgs., available in the vehicle, and registered a case in COR No.24 of 2017. The petitioner filed representation dated 14.02.2017 before the 2nd respondent, requesting him to release the vehicle. But, the 2nd respondent has not passed any orders on the representation made by the petitioner and not released the vehicle of the petitioner.

Learned counsel for the petitioner 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.

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

Having considered the submission made by the learned counsel for the petitioner and the learned Government Pleader and on perusal of the relevant provisions, it may be noted that the jaggery is one of the items, which is notified under the Essential Commodities Act, 1955. In the present case, it is the case of the respondents that about 1250 kgs., of black jaggery is being transported by the petitioner and was intercepted and a case was registered. In other words, the petitioner is being prosecuted for an excise offence.

Subject to the final outcome of the case and considering the fact that the petitioner had purchased the vehicle in question under a hire purchase agreement under which he is required to pay monthly installments, the writ petition is being disposed of directing the respondents to release the seized vehicle bearing No.TS 06 UA 9717 for interim custody of the petitioner forthwith, on petitioner furnishing a Fixed Deposit Receipt for an amount of Rs.3,00,000/-, pending finalisation of the Excise Case. Petitioner shall also furnish an undertaking that he will not alienate the vehicle or create any third party interest over it and will not alter its nature, pending disposal of the proceedings before the competent authority.

No order as to costs. As a sequel to disposal of the writ petition, W.P.M.Ps., if any pending, shall stand closed.

CHALLA KODANDA RAM, J

March 21, 2017
KTL

