

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.22784 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 issuing the impugned notice, dated 24.06.2017, bearing R.C.No.B1/311/2017, directing the petitioner to produce the FDR of Rs.8,50,000/- for release of the Lorry belonging to the petitioner bearing Registration No.AP-04-TW-3551, seized in Crime No.112 of 2017, instead of third party surety or property security, as illegal and arbitrary and consequently direct the 2nd respondent to modify the order, dated 31.05.2017, and release the vehicle by accepting the third party surety instead of FDR.

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

3. The case of the petitioner is that the petitioner is the registered owner of Ashok Leyland lorry bearing Registration No.AP-04-TW-3551, having purchased the same by availing financial assistance from HDFC Bank Limited, Kurnool, and that on 02.04.2017, the said vehicle has been engaged for transportation of black jaggery on payment on hire charges and when the said vehicle reached near Panyam Bus Stop, the 3rd respondent, who was conducting vehicle check, intercepted his vehicle and registered a case in Crime No.112 of 2017. On the report of the 3rd respondent submitted to the 2nd respondent, the 2nd respondent passed the impugned order bearing

No.R.C.No.B1/3111/2017, dated 24.06.2017, which reads as follows:

“Sri Shaik Mulla Mahaboob Peera, S/o S.M. Dasthagir, H.No.20/333, Modempalli Street, Proddutur(V&M) is hereby informed to produce F.D.R. for Rs.8,50,000/- (Rupees Eight Lakh Fifty Thousand only) in favour of the Deputy Commissioner of Prohibition & Excise, Kurnool being the value of the Ashoka Layland Lorry bearing No. AP 04 TW 3551 involved in C.r.No.112/2017 of Proh. & Excise Station as assessed by the Motor Vehicle Inspector Nandyal valid for a period of two years along with under taking on Non-Judicial Stamp Paper for interim custody of the said vehicle within (10) days from the dated of receipt of this notice for taking further action in the matter.”

Aggrieved by the said impugned order, the petitioner filed the present writ petition with a prayer to direct the 2nd respondent to modify the order, dated 31.05.2017, and release the vehicle by accepting the third party surety instead of FDR.

4. Learned counsel for the petitioner submitted that the petitioner is the owner 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.

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

6. Considering the facts and circumstances of the case and the grievance of the petitioner, this Court is of the view that the writ petition can be disposed of with the following direction:

The impugned order, dated 24.06.2017, passed by the Deputy Commissioner of Prohibition and Excise, Kurnool District (2nd respondent) is hereby modified and the FDR amount is reduced to Rs.1,00,000/- (Rupees one lakh only) from Rs.8,50,000/- and further the petitioner is also directed to execute a personal bond for a sum of Rs.5,00,000/- (Rupees five lakhs only) with one surety for the like sum to the satisfaction of the 2nd respondent. The other conditions imposed by the 2nd respondent in the impugned order, dated 24.06.2017, shall remain unaltered. However, it is made clear that the present order will not stand in the way of any confiscation proceedings.

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: 11th July, 2017

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