

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.22544 OF 2017

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking to issue a writ of *Mandamus* to declare the action of the respondents in foisting a false case and seizing petitioner's vehicle DCM Goods Carriage-HMV bearing No.AP 29 TB 5579 without any notice in Confession and Seizure Panchanama, dated 30.06.2017, in Crime No.44 of 2017 for the offences under Section 34(e) of the A.P. Excise Act, 1968 and section 20(2) of the Tobacco Act, 2003 as illegal and arbitrary and consequently, direct the respondents to release the vehicle forthwith.

2. Heard and perused the material available on record.
3. On 30.06.2017, respondent No.2 registered the aforementioned case and seized the aforementioned vehicle of the petitioner on the ground that the vehicle was found carrying 10 cottons of jaggery, each containing 20 kgs., and 6 kgs., of Alum and 42 gutka packets, each packet having 65 pieces.
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 Prohibition and Excise 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 respondent No.3 - Deputy Commissioner of Prohibition and Excise, Nalgonda District, to release the vehicle and on such application being filed, respondent No.3 shall release the vehicle of the petitioner i.e., DCM Goods Carriage-HMV bearing No.AP 29 TB 5579 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 the disposal of the criminal case 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.

8. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

Date: 10.07.2017
AMD

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