

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.15869 of 2017

ORDER:

Heard both sides. With the consent of both parties the writ petition is disposed of at the admission stage.

2. The present writ petition came to be filed seeking issuance of writ of Mandamus declaring the action of respondent No.2 in not releasing the Goods Carriage vehicle of the first petitioner bearing Reg.No.AP-29-U-9672 and Motor Cycle bearing Reg.No.TS-02-MTR-6971, seized in Crime No.19 of 2017 of Mahadevpur Police Station, Jayashanker Bhupalpally (Karimnagar) District, inspite of the readiness of the petitioners to furnish the third party surety, as illegal and arbitrary.

3. The averments in the affidavit filed in support of the writ petition would show that the first petitioner is the owner of goods carriage vehicle bearing No. AP-29-U-9672 and the second petitioner is the owner of Motor Cycle bearing Reg.No.TS-02-MTR-6971, and that their vehicles were used to earn additional income by transporting jaggery and alum. While things stood thus, the second respondent police seized the vehicles when the contraband was being transported. Thereafter they conducted a panchanama and registered a case in Crime No.19 of 2017 under Section 34(e) of A.P.Excise Act and Section 7(a) read with Section 8(e) of A.P.Excise and Prohibition Act. It is the case of the petitioners that the vehicles seized are not released till date, inspite of the readiness expressed by the petitioners for furnishing third party surety. Hence, the present writ petition came to be filed.

4. Learned counsel for the petitioners mainly submits that the present case is registered under the provisions of Excise and Prohibition Act by the regular police and not by the Excise officials. According to him, in similar circumstances, this Court in W.P.Nos.41144 of 2016 and 37361 of 2016, ordered release of vehicle on certain terms and conditions. The said fact is not seriously disputed by the learned Government Pleader for Home.

5. Having regard to the above, taking into consideration the circumstances of the case; in view of the orders passed by this Court in W.P.Nos.41144 of 2016 and 37361 of 2016; as the vehicles are in the custody of regular police, the vehicles i.e., goods carriage vehicle & motor cycle bearing Nos. AP-29-U-9672 and TS-02-MTR-6971 respectively, seized in Crime No. 19 of 2017 of Mahadevpur Police Station, Jayashanker Bhupalpally (Karimnagar) District, shall be released for interim custody of the petitioners, subject to final orders to be passed at the time of disposal of the main case, on first petitioner executing personal bond for Rs.1,30,000/- (Rupees one lakh thirty thousand only) and second petitioner on his executing personal bond for Rs.60,000/- (Rupees sixty thousand only) with two sureties each for the like sum referred to above and also on production of original R.C.Books. It is further directed that the petitioners shall not alienate the vehicles and shall not change the physical features of the same till the disposal of the criminal case and further the petitioners shall undertake to produce the vehicles as and when required by the concerned Magistrate. The said order will not stand in the way of initiating all consequential proceedings.

6. Accordingly, the Writ Petition is disposed of. No costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed.

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JUSTICE C. PRAVEEN KUMAR

15.06.2017

vhb

