

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.19438 OF 2017

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking to declare the action of the 2nd respondent in proceedings No.B5/ 655/ 2016, dated 04.01.2017, directing the petitioner to pay bank FDR of Rs.3,25,000/-, as illegal and arbitrary.

Heard and perused the material available on record.

The case of the petitioner is that he is the owner of Mahindra Bolero Mini Truck bearing Registration No.AP 24 TC 0370. On 23.11.2016, the 3rd respondent intercepted the vehicle and registered a case in PCOR No.247/ 2016 for the offence under Section 34 (e) of A.P. Excise Act R/ w. Rule 3 & 4 of GUR order, and seized 5 bags of black jaggery each containing 50 gs., and also 25 kgs., of alum. The jaggery and alum belong to third party and they engaged the vehicle of the petitioner for transportation of the same. The petitioner filed an application before the 2nd respondent seeking interim custody of the vehicle by furnishing all the relevant documents. After getting the value of the vehicle assessed by the Motor vehicle Inspector, Nagarkurnool, the 2nd respondent passed the impugned order, which reads as under:

“1. The petitioner shall submit FDR for Rs.3,25,000/- (Rupees three lakhs twenty five thousand only) from any Nationalized Bank situated in Telangana State in favour of the Deputy Commissioner of Prohibition & Excise, Mahabubnagar division.

2. He shall furnish an undertaking with two sureties for the above like sum to the extent that he will not sell, transfer or alienate the vehicle and will reproduce it as and when required and also that, in case of his failure to comply in reproducing the vehicle the FDR furnished shall be forfeited to the Government without any further notice.

3. He shall furnish the original RC book of the vehicle for verification of the ownership particulars.”

Challenging the conditions of submitting FDR for Rs.3,25,000/- with two sureties, the petitioner filed this writ petition.

Learned counsel for the petitioner submitted that the petitioner is eking out his livelihood by plying the said vehicle, and that he is not in a position to submit the FDR for the aforesaid huge amount, and requested to reduce the said amount.

Considering the circumstances of the case and the grievance of the petitioner, this Court is inclined to pass the following order:

“The 2nd respondent is directed release the vehicle of the petitioner on petitioner submitting FDR for a sum of Rs.1,00,000/- (Rupees One Lakh only) from any Nationalized Bank situated in Telangana State in favour of the Deputy Commissioner of Prohibition & Excise, Mahabubnagar Division, along with one surety for the like sum.

The other conditions imposed by the 2nd respondent in the order impugned shall remain unaltered.”

With the above modification, the Writ Petition is disposed of. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.

RAJA ELANGO, J

June 15, 2017

KTL