

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.18291 OF 2017

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking to declare the action of respondent No.2 in not passing orders for release of Mahindra Bolero Truck Jeep bearing Registration No.AP-05-TB-7735 seized in Crime No.35 of 2017 inspite of the readiness of the petitioner to furnish the third party surety as illegal and arbitrary.

2. Heard and perused the material available on record.

3. The petitioner herein is the owner of the aforementioned vehicle. On 22.3.2017, respondent No.3 registered the aforementioned case under Sections 7(a) read with 8(e) of the A.P. Prohibition Act, 1997 and Sections 34(e) and 34(2) of the A.P. Excise Act, 1968 on the ground that they were transporting black jaggery, ID liquor and ammonia illegally.

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 Home 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.2 - Deputy Commissioner of Prohibition and Excise, Kakinada enclosing thereto a Fixed Deposit Receipt (FDR) drawn in favour of the Deputy Commissioner on any nationalized bank in a sum of Rs.1,00,000/- (Rupees one lakh only) and on such application being made, the vehicle i.e., Mahindra Bolero Truck Jeep bearing Registration No.AP-05-TB-7735 shall be released for interim custody of the petitioner subject to final orders to be passed in the above crime 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 crime 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 : 08.06.2017
AMD

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