

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.21000 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 not passing orders for release of the vehicle Lorry bearing Registration No.MP-09-HF-3046 seized in C.O.R.No.279 of 2016 in spite of the petitioner readiness to furnish the third party surety, as being illegal, arbitrary and unjust and consequently, direct the respondents to release the petitioner's vehicle Lorry bearing Registration No.MP-09-HF-3046 value of Rs.1,00,000/- by allowing him to furnish third party surety.

2. Heard and perused the material available on record.

3. The case of the petitioner is that the petitioner is the owner of vehicle lorry bearing Registration No.MP-09-HF-3046. The petitioner has engaged his vehicle bearing Registration No.MP-09-HF-3046 with one L.Rajesh Kumar for the purpose of transportation of White Jaggery and other kirana items in the name and style of M/s.Shabari Sutryanarayana Traders and that he purchased white Jaggery 420 bags each containing 38 kgs, total 15,960 kgs from M/s.Agarwal Trading Company, Garadwada, Madhya Pradesh State, under valid bill, dated 15.12.2016, and loaded in the petitioner's lorry and when the said vehicle reached near Bhupathipet outskirts, the 3rd respondent intercepted the said vehicle in a routine and mechanical manner and registered a case in C.O.R.No.279 of 2016, under Section 34(e) of the A.P.

Excise Act, 1968, and seized the vehicle of the petitioner along with white jaggery.

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 these circumstances, the petitioner is directed to make an application before the Deputy Commissioner of Prohibition and Excise, Warangal Division, Warangal District (2nd respondent) enclosing thereto a Fixed Deposit Receipt (FDR) drawn in favour of the Deputy Commissioner on any nationalized bank for a sum of Rs.1,00,000/- (Rupees one lakh only) and on such application being made, the vehicle i.e., lorry bearing Registration No.MP-09-HF-3046 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. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

RAJA ELANGO, J

Date: 28th June, 2017

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