

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.21609 of 2017

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking to declare the action of the respondents in not releasing the petitioner's vehicle MAHINDRA BOLERO MAXI TRUCK PLUS bearing No. TS-O1-UA-1359 in C.O.R.No.24 of 2017, dated 19.01.2017, as being illegal and arbitrary.

2. Heard both sides and perused the material available on record.

3. The case of the petitioner is that the petitioner is the registered owner of MAHINDRA BOLERO MAXI TRUCK PLUS bearing No. TS-O1-UA-1359. On 19.01.2017, the 3rd respondent raided Munyal Thanda Village and detected one case of illegal possession and transportation of 120 kgs of alum and 20 kgs of jaggery and registered a case in C.O.R.No.24 of 2017 for the offence under Section 34(a) of the Excise Act, 1968, and the said vehicle of the petitioner was also seized along with the stock and that the vehicle is in the custody of the 3rd respondent.

4. Learned counsel for the petitioner submits that if the vehicle is exposed to sun and rain and is kept idle, it would be damaged. He further submits that the petitioner is ready and willing to furnish security for release of the vehicle and also produce the vehicle as and when required by the concerned Magistrate.

5. Learned Government Pleader also submitted that interim custody of the crime vehicle can be granted to the petitioner by imposing certain conditions.

6. Considering these circumstances, the petitioner is directed to make an application before the 2nd respondent and on such application being made, the vehicle i.e., MAHINDRA BOLERO MAXI TRUCK PLUS bearing No. TS-O1-UA-1359 shall be released for interim custody of the petitioner, subject to final orders to be passed in the criminal case, on his executing a personal bond for Rs.2,00,000/- (Rupees two lakhs 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 concerned Magistrate. 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. Accordingly, the Writ Petition is disposed of. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.

RAJA ELANGO,J

Date: 3rd July, 2017

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