

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.26455 of 2017

ORDER:

This Writ Petition is filed for the following relief:

“... to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the No.2 respondent in issuing the notice Cr.No.231/2017/PE/B4, dated 29.06.2017 directing me to furnish FDR/Bank guaranty for Rs.1,25,000/- from any nationalised bank situated in Telangana State in favour of 2nd respondent for release of vehicle Auto Rickshaw bearing No.TS 03 UB 4462 for interim custody within (7) days, in spite of my repeated request/appeal is illegal, arbitrary, unjust, violation of principle of natural justice, contrary to law and violation of Article 14, 16 and 21 of Constitution of India and consequently set aside the notice Cr.No.231/2017/PE/B4, dated 29.06.2017, issued by 2nd respondent and forthwith direct the respondent 2 and 3 to release my auto rickshaw bearing No.TS 03 UB 4462 forthwith as otherwise I will suffer serious lose and life threat to me and my family members.”

Heard and perused the material available on record.

The case of the petitioner is that he is the owner of auto rickshaw bearing registration No.TS 03 UB 4462 and while he was waiting for passengers at Thopanagadda Thanda, H/o. Lingagiri Village, at about 1330 hours one passenger came with luggage and asked him to come to Nekkonda. When the petitioner reached Thopanagadda Thanda, H/o. Lingagiri village, the 3rd respondent intercepted the said vehicle in a routine and mechanical manner and registered a case in FIR.No.3 of 2017, under Section 34(e) of the A.P. Excise Act, 1968, on the ground that the passenger, who engaged the auto rickshaw, is transporting black jaggery worth 50 kgs and seized the vehicle of the petitioner along with the jaggery.

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.

Learned Government Pleader for Excise for the respondents objected for the same since the vehicle is involved in a crime.

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.1,25,000/- (Rupees one lakh twenty five thousand only) and on such application being made, the vehicle i.e., auto rickshaw bearing registration No.TS 03 UB 4462 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.

With the above directions, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, shall also stand disposed of.

A.V.SESHA SAI, J

Date: 11.08.2017
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