

THE HON' BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.17534 of 2017

ORDER:

This Writ Petition is filed seeking to declare the action of the 2nd respondent in issuing notice dated 06.04.2017 directing the petitioner to furnish the FDR/ Bank guarantee for Rs.5,00,000/- for release of the vehicle of the petitioner i.e. Mahindra Supra bearing Regd.No.TS 26 0298 seized in C.O.R.No.27/ 2017 in stead of third party surety, as illegal and arbitrary.

Heard and perused the material available on record.

The vehicle of the petitioner was seized by the 3rd respondent while the said vehicle was used in transporting white jaggery. The 3rd respondent registered a case in COR No.27/ 2017 under section 34(e) of the A.P. Excise Act. The petitioner filed a representation to the 2nd respondent –Deputy Commissioner of Prohibition & Excise, Warangal, for release of the said vehicle. The 2nd respondent issued notice, dated 06.04.2017, to the petitioner informing him to furnish FDR/ Bank guarantee of Rs.5,00,000/- (Rupees five lakhs only) for the value of the vehicle fixed by the District Transport Officer, within seven days. Challenging the same the present writ petition is filed.

Learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle and he is eking out his livelihood by engaging the same for transport of the goods and that the petitioner is unable to submit the FDR / Bank guarantee of the amount mentioned in the impugned notice, and therefore, he requested to reduce the said amount. He further submitted that the petitioner is ready to produce the vehicle as and when required by the Court.

Considering the fact and circumstances of the case, it is directed that the vehicle i.e. Mahindra Supra bearing No.AP 26 0298, shall be released for interim custody of the petitioner, subject to final orders to be passed in the main case, on petitioner furnishing a bank guarantee for Rs.2,00,000/- (Rupees two lakhs only) with one surety for the like sum to the satisfaction of the 2nd respondent – Deputy Commissioner of Prohibition and Excise, Warangal, 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 the petitioner shall undertake to produce the vehicle as and when required by the officials. 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. No order as to costs. Consequently, miscellaneous petitions pending if any, shall stand closed.

RAJA ELANGO, J

June 02, 2017.
KTL