

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.22694 of 2017

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking to declare the action of the 2nd respondent in not passing orders for release of the Ashok Leyland Mini Truck bearing Reg. No.TS-04-UB-4805 seized in C.O.R.No.233 of 2017 in spite of the readiness of the petitioner to furnish the third party surety, as being illegal, arbitrary and unjust.

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 Ashok Leyland Mini Truck bearing Registration No.TS-04-UB-4805, having purchased the same by availing financial assistance from Cholamandalam Investments and Finance and he is eking out his livelihood from out of the income derived from the said vehicle and that the petitioner has engaged a driver to ply the said vehicle. On 22.05.2017, the vehicle of the petitioner has been engaged for transportation of white jaggery on payment of hire charges and when the vehicle reached near Forest Check Post, Bhadrachalam, the 3rd respondent, who was conducting vehicle check, stopped and checked the said vehicle and in a routine and mechanical manner, seized the vehicle along with the stock and registered a case in C.O.R.No.233 of 2017, under Section 34(e) of the A.P. Excise Act, 1968, and that the said 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 Deputy Commissioner of Prohibition and Excise, Khammam District (2nd respondent) and on such application being made, the vehicle i.e., Ashok Leyland Mini Truck bearing Reg. No.TS-04-UB-4805 seized in C.O.R.No.233 of 2017 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.1,00,000/- (Rupees one lakh 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: 11th July, 2017

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