

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.23674 OF 2017

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in not releasing the petitioner's Hero HF Deluxe Motor Cycle bearing Reg. No.TS-29-4244 seized in Cr.No.86 of 2017 in spite of her readiness to furnish the third party surety, as being illegal, arbitrary and unjust and consequently direct the 2nd respondent to issue orders for release of the vehicle.”

2. Heard and perused the material available on record.
3. It is stated in the affidavit filed in support of the writ petition that the petitioner herein is the owner of the aforementioned vehicle. On 06.07.2017, at about 6:30 A.M., while the husband of the petitioner was proceeding on the said vehicle and when the said vehicle reached near Penpahad, respondent No.3 stopped and inspected the vehicle and registered the aforementioned case for the offence under Section 7(A) read with 8(e) of the A.P. Prohibition Act, 1995.
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 Prohibition and Excise 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 respondent No.2/The Deputy Commissioner of Prohibition and Excise, Nalgonda, Nalgonda District and on such application being made, the vehicle i.e., Hero HF Deluxe Motor Cycle bearing registration No.TS-29-4244 shall be released for interim custody of the petitioner, subject to final orders to be passed in the criminal case, on her executing a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) with one surety for the like sum to the satisfaction of respondent No.2 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, she 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. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs.

8. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

Date: 18.07.2017
AMD



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Date: 18.07.2017

AMD