

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.19152 of 2017

ORDER:

The petitioner filed this Writ Petition by invoking the provisions under Article 226 of the Constitution of India, seeking to declare the action of the respondents 2 & 3 in detaining the vehicle i.e. Auto Rickshaw bearing No.AP 03 X 7412, as illegal and arbitrary, and consequently, direct the respondents to release the petitioner's vehicle.

Heard and perused the material available on record.

The petitioner herein filed a petition under Section 457 Cr.P.C. seeking release of his vehicle i.e. auto rickshaw bearing No.AP 03 X 7412 seized by the Prohibition and Excise Police, Karvetinagaram, Chittoor District, in connection with the crime No.319 of 2016-17, for the offence punishable under Section 34(e) of the A.P. Excise Act r/w. Section (4) of GUR, before the Judicial Magistrate of First Class for Excise, Chittoor. The learned Magistrate dismissed the said application on the ground that the Deputy Commissioner, Prohibition & Excise, is competent to pass interim order for custody of any property seized in excise offences. Aggrieved by the same, the present criminal petition is filed.

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 Assistant Government Pleader for Prohibition & Excise objects for the same, since the vehicle is involved in a crime.

Considering these circumstances, the petitioner is directed to file an application before the 2nd respondent – Deputy Commissioner, Prohibition & Excise, Chittoor, to release his vehicle and on such application being filed, the 2nd respondent is directed to release the vehicle of the petitioner i.e. Auto Rickshaw bearing No.AP 03 X 7412, for interim custody of the petitioner, subject to final orders to be passed in the criminal case, on petitioner furnishing a bank guarantee for Rs.50,000/- (Rupees fifty thousand 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 disposal of the criminal case and further the petitioner 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. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

June 15, 2017.

KTL

RAJA ELANGO, J