

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**WRIT PETITION No.38296 of 2017**

**ORDER:**

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

**“For the reasons stated in the accompanying affidavit, it is prayed that this Hon’ble Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the seizure of the petitioner vehicle Lorry bearing No. TS-10-UA-1822 is illegal, arbitrary and violative of Article 19 (1) (g) of the Constitution of India and consequently direct the 2<sup>nd</sup> respondent to release the petitioner vehicle Lorry bearing No. TS-10-UA-1822, by collecting penalty as per rules and pass such other order or orders as this Hon’ble Court may deem fit and proper in the interest of justice.”**

(Reproduced verbatim)

2. I have heard the submissions of Sri *Mohd. Arif Wali*, learned counsel appearing for the petitioner, learned Government Pleader for Mines and Geology appearing for the 1<sup>st</sup> respondent, and of learned Assistant Government Pleader for Home appearing for the 2<sup>nd</sup> respondent. I have perused the material record.

3. Learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle bearing No.TS-10-UA-1822 and that the facts of the present case are identical to the facts in W.P.No.35397 of 2017 and that, therefore, the relief that was granted to the petitioners in the said writ petition may be granted to the petitioner in the present writ petition.

4. The learned Assistant Government Pleader for Home appearing for the 2<sup>nd</sup> respondent would only submit, on instructions, that a crime has been registered pursuant to the seizure of the vehicle.

However, learned counsel for the petitioner submits that the seizure of the vehicle is not yet reported to any Court concerned.

5. Accepting the said statement and following the decision of this Court in the earlier writ petition, this Writ Petition is disposed of in terms of the said decision with the following directions:

**“The petitioner is directed to submit an application for release of the vehicle before the competent authority and the competent authority, within three (03) days from the date of receipt of such application, examine whether the vehicle is used in committing the offence for the first and second time and if so, consider directing release of the vehicle on payment of the prescribed penalty. If, on the other hand, the vehicle is found to have been used in commission of the offence for three or more times, the officer concerned shall consider directing release of the vehicle after deposit of amount in accordance with Rule-12 of G.O.Ms.No.15 dated 19.02.2015 and also on execution of a bond along with an affidavit giving consent to produce the seized vehicle as and when required.”**

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

**JUSTICE M. SEETHARAMA MURTI**

Date: 16<sup>th</sup> November, 2017

**Note:** Issue C.C. today.

(B/o.)  
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