

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.35910 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner questioning the seizure of the tractor and trailer bearing Nos.TS04 N TR 0618 as illegal, arbitrary and unconstitutional.

I have heard the submissions of the learned counsel for the petitioner and of the learned Assistant Government Pleader representing the 2nd respondent.

Learned counsel for the petitioner first submitted that the tractor and trailer were seized while transporting goods. Further, having placed reliance upon an order, dated 29.12.2016, of this Court in W.P.No.44808 of 2016 and stating that in that writ petition with identical facts this Court gave appropriate directions with regard to the release of the vehicles, sought similar directions in this petition for release of the subject vehicle as per terms of the Government Orders in G.O.Ms.No.15, dated 19.02.2015.

Learned Assistant Government Pleader would submit that the above said tractor and trailer are already produced before the learned Magistrate concerned and, therefore, the writ petitioner is required to make appropriate application before the Court of the learned Magistrate for release of the said tractor and trailer. Learned Assistant Government Pleader would further submit that to evade her arrest, the petitioner approached this Court by way of a writ petition and hence, this Court may give appropriate directions to the petitioner to cooperate with the investigating agency to enable the Investigating Officer to complete the investigation and submit a final report to the Court concerned.

In reply, learned counsel for the petitioner would submit that the petitioner undertakes to cooperate with the investigating agency.

Learned counsel for the petitioner further submits that even if the tractor and trailer are produced before a competent Court, still, as per the terms of the afore-said GO, the 2nd respondent/ authority concerned is also empowered to consider the request of the petitioner for release of the seized tractor and trailer in matters of this nature as per policy decision taken by the Government.

Having regard to the submissions and the terms of G.O.Ms.No.15, dated 19.02.2015, the Writ Petition is disposed of with the following directions: 'The petitioner is at liberty to approach either the learned Magistrate before whom the tractor and trailer were said to have been produced and file an application as per the procedure established by law and seek release of the tractor and trailer by bringing to the notice of the Court the policy decision taken by the Government and the terms of the G.O.Ms.No.15, dated 19.02.2015, if the petitioner so desire; or, in the alternative she may make a request to the 2nd respondent by filing an appropriate application for release of the tractor and trailer; and, if any such an application comes to be filed before the 2nd respondent, the 2nd respondent is at liberty to pass appropriate orders as per terms of G.O.Ms.No.15, dated 19.02.2015, after examining the competence and jurisdiction to release the tractor and trailer, which were said to have been produced before the Court concerned.' It is needless to state that the application, if any, filed by the petitioner before either the Court or the 2nd respondent shall be disposed of on the same day in the interests of justice.

This order is subject to the undertaking of the petitioner that she would cooperate with the investigating agency for investigation into Crime No.226 of 2017 on the file of Kamepally PS.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M. Seetharama Murthi, J

02.11.2017

Note: Issue CC by 03.11.2017.
[B/o]
RAR

