

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.39988 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 the petitioner herein pray 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 to declare the action of the respondent Nos. 1 to 3 in detaining the vehicle of the petitioner Bajaj Platina Motor bike bearing No.AP 21 AJ 3530 by seizing the same in Cr.No.73/2016 on the file of 3rd respondent police station and thereby handing over the same to the 2nd respondent even though the said vehicle is not involved in transportation of any forest produce as arbitrary, illegal and consequently direct the respondents to return the Bajaj Platina Motor bike bearing No.AP 21 AJ 3530 to the petitioner forthwith in the interest of justice.”

(Reproduced verbatim)

2. I have heard the submissions of Sri *P. Nagendra Reddy*, learned counsel appearing for the petitioner, and of the learned Government Pleader for Forest appearing for the respondents 1 to 4. I have perused the material record.

3. The case of the petitioner is that the subject vehicle has been seized by the 3rd respondent while transporting Red Sandal wood and that thereafter, Crime No.73 of 2016 was registered by the Station House Officer, Allagadda Rural Police Station, Allagadda, Kurnool District, for the offences punishable under Sections 120(B) and 379 of the Indian Penal Code and Section 20(1)(C)(ii)(iii)(iv) and (x) of the A.P. Forest Act, 1967, and that the petitioner is not one of the accused in the crime and that the vehicle need not be detained till the completion of investigation and that when the petitioner approached the first respondent for interim custody of the vehicle, his request was

not considered in view of the fact that it is involved in the commission of transportation of Red Sandal wood.

4. Learned Standing Counsel appearing for all the respondents would submit that the vehicle is involved in commission of transport of Red Sandal wood of 359 Kgs worth more than a crore of rupees and that proceedings under Section 44 of the Forest Act are also likely to be initiated and, therefore, the vehicle may not be granted interim custody to the petitioner and in case the vehicle is granted interim custody, appropriate conditions may be imposed.

5. Recording the submissions, the Writ Petition is disposed of directing the first respondent to release the vehicle i.e., Bajaj Platina Motor bike bearing No.AP 21 AJ 3530 and give interim custody of the same to the petitioner on the petitioner producing proof of identity and vehicular documents and on furnishing a bank guarantee for Rs.50,000/- (Rupees fifty thousand only) and on further undertaking that he would produce the vehicle before the competent authority or Court as and when directed and necessary and would maintain the vehicle in the same good road worthy condition without changing any of its major parts and features.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 28th November, 2017

KL

201

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**WRIT PETITION No.39988 of 2017**Date: 28th November, 2017

KL