

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.40242 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed complaining the inaction of the respondents in releasing the vehicle/motor cycle bearing no.TS 04 EE 7293 seized in case in C.O.R.No.308 of 2017 on the file of Prohibition & Excise Station, Mahabubabad, Mahabubabad District.

I have heard the submissions of the learned counsel for the petitioner and of the learned Assistant Government Pleader representing the respondents 1 to 4. I have perused the material record.

Learned counsel for the petitioner submits that in matters of identical nature, this Court is releasing the vehicles by imposing conditions. He placed reliance on the order, dated 14.11.2017, of this Court in W.P.No.37889 of 2017.

However, learned Assistant Government Pleader would submit that considering the nature of the offences, the authority concerned is not prepared to accept personal bond and, therefore, a direction may be given to furnish a Fixed Deposit Receipt in favour of the authority concerned. In support of the said contention, she placed reliance on the order, dated 02.11.2017, of this Court in W.P.No.36615 of 2017.

The contraband seized is 5 litres of gudumba is not in dispute. The petitioner, who is now seeking release of the vehicle, is not one of the accused in the subject crime but, however, the learned counsel for the petitioner would submit that the contraband was seized from the accused, who is no other than the brother of the petitioner, while he is transporting the same on the subject vehicle.

Having regard to the facts and submissions, this Writ Petition is disposed of with the following directions: 'On the petitioner approaching the 3rd respondent with an appropriate application enclosing a Fixed Deposit Receipt, from a nationalised bank, drawn in favour of the said authority payable at Mahabubabad, for a sum of Rs.20,000/- [Rupees Twenty Thousand only], the subject vehicle viz., motor cycle bearing

registration no.TS 04 EE 7293 shall be given interim custody to the petitioner on the petitioner establishing his identity and entitlement for having custody of the vehicle and on further producing the necessary vehicular documents including the registration certificate and on giving an undertaking that he will keep the vehicle insured at all times and in good roadworthy condition by regular maintenance without changing its features and major parts and that he will not create any third party interests in any manner over the said vehicle and shall produce the same before any authority/Court as and when necessary and directed. It is made clear that the FDR, which is directed to be made, shall be subject to the result of the final orders that may be passed in the matter, in the event of initiation of any proceedings against the petitioner as per law.'

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

29.11.2017

Note: Issue C.C. by 30.11.2017.
(B/o.)
Vjl

JUSTICE M. SEETHARAMA MURTI

