

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

WRIT PETITION No.3638 OF 2021

ORDER:

This Writ Petition is filed to declare the action of the second respondent in not directing the third respondent to release the vehicle of the petitioner i.e., CB Shine Motor Cycle bearing No.TS-03-EH-1895 seized in Crime No.65 of 2020 dt.19.09.2020, as illegal and arbitrary, and consequently, direct the 2nd respondent to order for release of the vehicle to the petitioner. The petitioner is accused No.1 in the said crime. The offence alleged against him is under Section 34(E) of Telangana State Excise Act, 1968.

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise.

The case of the petitioner is that he is the registered owner of the vehicle i.e., CB Shine Motor Cycle bearing No.TS-03-EH-1895, purchased in the year 2019 and he is using the said vehicle for the purpose of attending his day-to-day works. He further submits that the 3rd respondent seized the said vehicle on the ground that the vehicle is used in transporting the jaggery. He is also accused in the said crime.

Learned counsel for the petitioner would submit that the vehicle in dispute is of the year 2019 make. In proof of the same, he has filed copy of certificate of registration. The contraband seized was about one quintal of black jaggery. By referring the same, learned counsel for the petitioner would submit that an amount of Rs.10,000/- could be the reasonable amount towards security deposit for releasing of the vehicle.

Considering the fact that the petitioner is only transporting the jaggery that is used as fodder to the cattle and also mixed with pesticides to spray on the standing crops to kill the germs and that he is using the said vehicle for day-to-day activities, the vehicle can be released subject to further proceedings under the Excise Act, on certain terms.

The Writ Petition is accordingly, disposed of directing the respondents to release the vehicle i.e., CB Shine Motor Cycle bearing No.TS-03-EH-1895 subject to the condition of the petitioner furnishing Fixed Deposit Receipt (FDR) for Rs.10,000/- (Rupees Ten thousand only) in favour of the second respondent. The petitioner shall also furnish an undertaking that he will not alienate or change the physical features of the vehicle. The second respondent shall write to the RTA authority not to transfer the vehicle in favour of any third party without clearance from the Excise Department. Needless to say, release of the vehicle is subject to the orders that shall be passed by the second respondent authority pursuant to the enquiry to be conducted under the provisions of the Excise Act. No order as to costs.

Miscellaneous Petitions, if any, pending, shall also stand closed.

K. LAKSHMAN, J

Date: 19.02.2021
dv