

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

WRIT PETITION No.3968 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., HF Deluxe (self-drum-Cast) Motor Cycle bearing No.TS-26-A-8716 seized in Cr.No.59 of 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 A.P.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., HF Deluxe (self-drum-Cast) Motor Cycle bearing No.TS-26-A-8716, which is of the year 2018 make and the said vehicle was used him as well as his family members for day-to-day activities. He further submits that the 3rd respondent seized the said vehicle on the ground that the vehicle is used in transporting the black jaggery and alum.

Learned counsel for the petitioner would submit that the vehicle in dispute is of the year 2018 make. In proof of the same, he has filed copy of certificate of registration. The contraband seized was about 25 quintals of black jaggery and 3 quintals of Alum. By referring the same, learned counsel for the petitioner submit that an amount of Rs.5,000/- could be the reasonable amount towards security deposit for releasing of the vehicle.

Considering the fact that the petitioner is only using his 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., HF Deluxe (self-drum-Cast) Motor Cycle bearing No.TS-26-A-8716 subject to the condition of the petitioner furnishing Fixed Deposit Receipt (FDR) for Rs.5,000/- (Rupees Five 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.

Date: 19.02.2021
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K. LAKSHMAN, J