

**THE HON'BLE SRI JUSTICE T. VINOD KUMAR**

**Writ Petition No.18407 of 2022**

**ORDER:**

This Writ Petition is filed to declare the action of the 2<sup>nd</sup> respondent in not directing the 3<sup>rd</sup> respondent to release the petitioner's vehicle bearing registration No.TS 29 4844 seized in connection with Crime No.1712 of 2020, on the file of the Additional Judicial First Class Magistrate, Suryapet, as illegal and arbitrary, and sought for a consequential direction to the respondents to release the same. The offence alleged against the petitioner is under Section 34(e) of the Telangana State Excise Act.

2. Heard the learned counsel for the petitioner, the learned Government Pleader for Prohibition and Excise and learned Government Pleader for Home appearing for the respondents and with their consent, the writ petition is taken up for hearing and disposal at the stage of admission.

3. The case of the petitioner is that he is the registered owner of the vehicle in dispute i.e., CB Unicorn Motor Cycle bearing registration No.TS 29 4844, which is of 2016 make. In proof of the same, he has filed a copy of certificate of registration. He further submits that the 3<sup>rd</sup> respondent seized the said vehicle on the ground that the said vehicle is being used for transporting black jaggery illegally.

4. Learned counsel for the petitioner would submit that the subject two-wheeler is being used by the petitioner for his day to day mobility and on

account of seizure by the 3<sup>rd</sup> respondent and keeping it in open space outside the 3<sup>rd</sup> respondent police station, the subject vehicle is getting rusted and becoming junk. It is further submitted that petitioner would comply with conditions if any imposed by the Court for release of the vehicle.

5. Learned Government Pleader for Home submits that the subject vehicle seized in connection with the above crime has been deposited with the 2<sup>nd</sup> respondent on 13.04.2022 and thus, the 3<sup>rd</sup> respondent does not have possession of the said vehicle as of today.

6. Considering the fact that the respondents have initiated proceedings under the Act wherein the petitioner is arrayed as accused No.2 and that the proceedings are pending consideration, and taking note of the fact that no useful purpose would be served in keeping the subject vehicle in the custody of the 2<sup>nd</sup> respondent, this Court is of the view that the 2<sup>nd</sup> respondent can be directed to release the subject vehicle by putting petitioner on certain terms.

6. The Writ Petition is accordingly, disposed of directing the respondents to release the vehicle in dispute i.e., CB Unicorn Motor Cycle bearing registration No.TS 29 4844, subject to the condition of the petitioner furnishing Fixed Deposit Receipt (FDR) for Rs.15,000/- (Rupees Fifteen Thousand only) in favour of the 2<sup>nd</sup> respondent. The petitioner shall also furnish an undertaking that he will not alienate or change the physical features of the vehicle. The 2<sup>nd</sup> 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 2<sup>nd</sup> respondent authority pursuant to the enquiry to be conducted under the provisions of the Excise Act.

7. Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

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**T. VINOD KUMAR, J**

Date:20.04.2022

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**WP.No. 19888 of 2022**

**20.04.2022**

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