

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO: 34988 OF 2023

Between:

Konda Avinash, S/o Venkataramana, Age 24 years, Occ Owner of the TATA Motor Intra Vehicle bearing No. AP 39 UN 0491, R/o. H.No.20-18-356, DS Nagar, 2nd line, Etukur road, DS Nagar, Guntur, Andhra Pradesh- 522003.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Prohibition and Excise Department, Secretariat, Hyderabad.
2. The Deputy Commissioner of Prohibition and Excise, Warangal, Warangal District.
3. The Station House Officer, Nellikudur, Prohibition and Excise Station, Mahabubabad District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the in action of the 2nd respondent to release the Petitioner's TATA Motor Intra Vehicle bearing No. AP 39 UN 0491 seized in FIR No. 178/2023 dated 24- 10- 2023, seized of petitioners vehicle was being illegal, arbitrary and unjust also Article 14, 19, 21 and 300- A of the Constitution of India and consequently direct the 2nd respondent to release of the vehicle to the petitioner forthwith.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 2nd respondent to release the Petitioner's TATA Motor Intra Vehicle bearing No. AP 39 UN 0491 seized in FIR No. 178/2023 dated 24/10/2023, pending disposal of the above writ petition.

Counsel for the Petitioner: SRI V.BRAHMAIAH CHOWDARY

Counsel for the Respondents: AGP FOR PROHIBITION & EXCISE

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION No.34988 OF 2023

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the action of respondent No.2 in not releasing the petitioner's TATA Motor Intra vehicle bearing No.AP-39-UN-0491, which was seized in FIR No.178 of 2023, dated 24.10.2023, as arbitrary and illegal and consequently to release the same in favour of the petitioner.

2. Heard learned counsel for the petitioner and learned Assistant Government Pleader for Prohibition and Excise appearing for the respondents. Perused the record.

3. The petitioner is the registered owner of TATA Motor Intra vehicle bearing No.AP-39-UN-0491. It is the case of the petitioner that the accused person, without the knowledge of the petitioner, has taken the subject vehicle for transportation of contraband and when the petitioner not cooperated with the demands of the respondent authorities, respondent No.3 seized the vehicle and registered a case in Crime No.178 of 2023, dated 24.10.2023 for the offence punishable under Section 34 (e) of the Telangana Excise Act, 1968 (for short, 'the Act, 1968').

4. The contention of learned counsel for the petitioner is that Section 45 of the Act, 1968 provides that whenever an offence has been committed, which is punishable under the Act, 1968, the things mentioned in Section 45 of the Act, 1968 are liable for confiscation. Section 46 of the Act, 1968 mandates the authority competent to seize the items mentioned in Section 45 of the Act, 1968 to produce before the Deputy Commissioner of Prohibition and Excise. On production of the seized property, the Deputy Commissioner is required to conduct proceedings for confiscation and if he is satisfied that an offence is committed under the Act, 1968 he may order for confiscation of the property seized. The Deputy Commissioner is also authorized to conduct public auction or dispose of the property so confiscated. Against the order of the confiscation, an appeal would lie under Section 46-C of the Act, 1968. Learned counsel for the petitioner further submitted that this Court has passed several orders directing the respondents to release the seized vehicles subject to the petitioner depositing the value of the vehicle and also furnishing an undertaking that pending confiscation proceedings, the vehicle shall not be alienated.

5. Having regard to the consistent view taken by this Court, the petitioner is also entitled to the relief of directing

respondents to release the vehicle in his favour. Accordingly, the Writ Petition is disposed of with the following directions:-

- (i) Pending final orders to be passed in confiscation proceedings, respondents are directed to release the TATA Motor Intra vehicle bearing No.AP-39-UN-0491 in favour of the petitioner on his furnishing fixed deposit of Rs.50,000/- (Rupees Fifty Thousand only).
- (ii) The petitioner is further directed not to encash the fixed deposits or create lien or mortgage on the fixed deposits till the conclusion of confiscation proceedings.
- (iii) The petitioner shall produce original R.C. Book of the vehicle at the time of release of the vehicle.
- (iv) The petitioner shall furnish an undertaking that he will not transfer or alienate the vehicle to third party in any manner and will maintain the vehicle in the same good roadworthy condition without changing the major parts and features.
- (v) The petitioner shall furnish an undertaking that he should produce the vehicle as and when directed by the concerned Court or competent authority.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

**SD/-A.V.S.PRASAD
ASSISTANT REGISTRAR**

To,

SECTION OFFICER

//TRUE COPY//

1. The Principal Secretary, Prohibition and Excise Department, Secretariat, Hyderabad, State of Telangana.

2. The Deputy Commissioner of Prohibition and Excise, Warangal, Warangal District.
3. The Station House Officer, Nellikudur, Prohibition and Excise Station, Mahabubabad District.
4. One CC to SRI V.BRAHMAIAH CHOWDARY, Advocate [OPUC]
5. Two CCs to GP FOR PROHIBITION & EXCISE, High Court for the State of Telangana at Hyderabad [OUT]
6. Two CD Copies

BSR
GJP



HIGH COURT

DATED: 29/12/2023

ORDER

WP.No.34988 of 2023



DISPOSING OF THE WRIT PETITION,
WITHOUT COSTS

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MAY
9/1/24