

THE HON'BLE SRI JUSTICE D. RAMESH

WRIT PETITION NO.291 of 2021

ORDER:

This Writ Petition is filed under Articles 226 of Constitution of India, seeking following relief:

“...to issue a writ, order or orders specially one in the nature of Writ of *Mandamus* declaring the action of the 3rd respondent in imposing an onerous condition to furnish Fixed Deposit Receipt (FDR) for Rs.2,50,000/- for release of petitioner vehicle bearing No.AP 39 S 5689 in Crime No.131 of 2020 of Hindupur SEB Station, Anantapur, as illegal, arbitrary, irrational, Article 14 and 21 of Constitution of India and consequently direct the respondents to release the petitioner vehicle stated supra by taking immovable property security for value of the vehicle and pass such other order or orders....”

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Excise and Home, appearing for the respondents.

3. It is submitted by the learned counsel for the petitioner that on the application filed by the petitioner, the 3rd respondent issued Reminder Notice *vide* Rc.No.1611/2020/B2, dated 14.12.2020 for interim custody of the seized vehicle, to the petitioner on the following conditions:

1) that the petitioner/owner shall submit a fixed deposit receipt for Rs.2,50,000/- towards the value of the vehicle in favour of Superintendent of Police SEB Anantapur.

2) that the petitioner/owner shall submit an undertaking to the effect that he shall not alter or alienate or sell the vehicle in any manner and keep it in the same conditions as it is now and produce the same at the place and time as directed by the authorities, as and when required till finalization of confiscation proceedings.

4. Aggrieved by the 1st condition, the present petition is filed.

5. The learned counsel for the petitioner submitted that there is no dispute about the ownership of the vehicle and the condition No.1 imposed, to furnish a fixed deposit receipt for Rs.2,50,000/- towards the value of the vehicle is an onerous condition and the petitioner is not in a position to furnish the same, and prayed to relax the condition.

6. Learned Assistant Government Pleaders for Excise and Home, did not oppose the Writ Petition.

7. In that view of the matter, the Writ Petition is allowed and the 1st condition of the impugned proceedings of the 3rd respondent is set aside and the respondents are directed to release the vehicle i.e., bearing No.AP 39 S 5689, for interim custody of the petitioner by taking collateral security/ immovable property security for the value of the said vehicle from the petitioner. It is further directed that the petitioner shall not alienate the vehicle, shall not change its physical features or create any encumbrance or change on the same. The petitioner shall produce the vehicle whenever he is directed to do so by the concerned authorities. As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed. No order as to costs.

JUSTICE D.RAMESH

Date: 06.01.2021
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Dated: 06.01.2021

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