

HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**Writ Petition No.20538 of 2020****Order:**

This writ petition under Article 226 of the Constitution of India is filed seeking release of the vehicle i.e. lorry bearing No.MH24AB-6887.

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

3. The petitioner is the owner of the lorry bearing No.MH24AB-6887. While granite slabs are being transported in the said lorry, the same was intercepted and it was seized by the 2nd respondent-Station House Officer of Ballikurava Police Station, Prakasam District. However, no crime was registered in this regard. The said vehicle was seized on the ground that the driver of the said lorry is transporting granite slabs without any valid permit.

4. Learned counsel for the petitioner would submit that it is a covered matter and in view of the order passed by this Court in W.P.No.17714 of 2020 that the petitioner is entitled for release of the vehicle.

5. Learned Assistant Government Pleader for Home would submit that Rule 26(3)(iii) of A.P. Minor Mineral Concession Rules, 1966 provides for imposition of penalty equal to market value of the mineral along with seigniorage fee prevalent at that time and as such unless the said penalty is paid that the said vehicle cannot be released. He would

submit that the said legal position is not brought to the notice of the earlier Bench at the time of disposing the writ petition W.P.No.17714 of 2020.

6. Therefore, the only ground on which the present petition is opposed by the learned Assistant Government Pleader for Home is that as Rule 26(3)(iii) of the Rules mandates that penalty is to be imposed equal to the market value of the mineral that unless the same is paid that the vehicle cannot be released.

7. However, from a reading of Rule 26 of the said Rules, it is clear that there is nothing to indicate in it that the vehicle cannot be released unless the said penalty is paid. All that the rule says is that a penalty can be imposed equal to market value of the mineral which is being transported in the vehicle without valid permit. But there is nothing in the rule which says that the vehicle can be seized or that the vehicle cannot be released unless the said penalty is paid. Even seizure of the vehicle is also not contemplated under the said rule, as rightly contended by the learned counsel for the petitioner.

8. Therefore, in the said facts and circumstances of the case, this writ petition is allowed. The 2nd respondent is hereby directed to release the vehicle i.e. lorry bearing No.MH24AB-6887 excluding the stock in it towards interim custody to the petitioner on furnishing self bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties for

a like sum to his satisfaction. However, the respondents are permitted to proceed with the remaining legal process relating to collection of penalty etc. The petitioner is directed not to alienate, alter or create any charge or third party rights over the said vehicle and he shall not make any changes in the physical features of the vehicle and he shall produce the said vehicle as and when directed before the competent authority or the Court. Pending applications, if any, shall stand closed. No costs.

CHEEKATI MANAVENDRANATH ROY, J.

30th November, 2020.

Note:-

Issue C.C. by 02-12-2020.

(B/o)

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