

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

Crl.P.No.14304 of 2013

ORDER:

This Criminal Petition is filed under Section 482 r/w 451 Cr.P.C., seeking release of 104 bags of black jaggery each containing 50 Kgs., i.e., 5200 Kgs and 50 Kgs of alum seized in P.R.No. 690 of 2013 of Wardhannapet Prohibition and Excise Station, Warangal District, which came to be registered for the offence punishable under Section 34(e) of A.P. Excise Act, 1968.

The allegations in the report would disclose that on 21.10.2013 the Prohibition and Excise staff searched the house of the petitioner and seized 104 bags of black jaggery each containing 50 Kgs., i.e., 5200 Kgs and 50 Kgs of alum. Basing on the said search and seizure, a case in P.R.No.690 of 2013 came to be registered for the offence punishable under Section 34(e) of the A. P. Excise Act.

Learned counsel for the petitioner submits that the petitioner is doing the business of purchase and sale of jaggery and other kirana items in the name and style of M/s Priyanka Jagery Merchant at Chintapalli, Warangal District and never indulged in any clandestine business.

It is represented by the learned Public Prosecutor that though the contraband is in the custody of Excise, but no proceedings with regard to confiscation of the same are initiated till today.

The petitioner filed an application under section 451 Cr.P.C., seeking interim custody of the seized property but the same was returned by the learned Magistrate on the ground that the said court has no jurisdiction to release the said property.

Mere possession of jaggery itself is not an offence either under provision of Andhra Pradesh Excise Act or under Andhra Pradesh Prohibition Act. If the petitioner had knowledge that the material purchased from his shop was being used for manufacturing illicit distilled liquor, then the question of releasing the stock in favour of the petitioner would not arise. In the case on hand, there is no material to show that the petitioner had knowledge about the material sold by him was being used for manufacturing illicit distilled liquor. Further, there is no dispute that the petitioner had licence to deal with the said material. In view of the above, I am inclined to release the material in favour of the petitioner provided the confiscation proceedings are not initiated till date.

Accordingly, the Criminal Petition is allowed and 104 bags of black jaggery each containing 50 Kgs i.e., 5200 Kgs and 50 Kgs of alum seized from the petitioner in P.R.No. 690 of 2013 of Wardhannapet Prohibition and Excise Station, shall be released to the petitioner on his executing a personal bond for Rs.1,00,000/- (Rupees one lakh only) with one surety for a like sum to the satisfaction of the learned VII Additional Judicial Magistrate of First Class, Thorrur, Warangal District.

Miscellaneous applications, if any, shall stand closed.

However, this order shall not preclude the authorities in proceeding against the petitioner under the provisions of the A.P. Excise Act.

C. PRAVEEN KUMAR, J.

Date: 31.12.2013

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