

THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELENGANA AND THE STATE OF ANDHRA PRADESH

FRIDAY THIS THE TWENTY FOURTH DAY OF APRIL
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE MR JUSTICE M.S.RAMACHANDRA RAO

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CRIMINAL PETITION Nos.3254 & 3255 of 2015

Between:

Bollepally Venkanna

..... PETITIONER

AND

The State of Telangana,

Rep.by its Public Prosecutor,

High Court of Judicature,

Hyderabad and another

.....RESPONDENTS

The Court made the following:

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRIMINAL PETITION Nos.3254 & 3255 of 2015

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COMMON ORDER:

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These two criminal petitions are filed under Section 482 r/w.Sec.451 Cr.P.C by the same petitioner alleging that he is a trader in Kirana and Jaggery; that during course of his business, he purchased 230 bags of black jaggery, each containing 50 kilograms under a valid bill and loaded the same in a lorry, but the same was intercepted by Noothankal Police who seized the vehicle along with the stocks and registered a case in Cr.No.155/2014 under Section 34(e) of A.P.Excise Act. The petitioner also contends that there was a raid on his shop and without perusing the bills, in a routine and mechanical manner, the 2nd respondent authorities seized the available stocks of 118 bags of black jaggery and registered another case in Cr.No.164/2014 under Section 34(e) of A.P.Excise Act. The petitioner contends that he had approached the 2nd respondent for release of the said bags of black jaggery

and an order in Cr.No.96/2015/B, dated 30.03.2015 was passed by the 2nd respondent asking the petitioner to submit an FDR for Rs.3,49,000/- to release the seized bags of black jaggery in both the crimes for his interim custody.

2 .Petitioner contends that the 2nd respondent had imposed onerous condition for grant of interim custody of the said bags of jaggery to him; that it is an agricultural produce and there is no law prohibiting sale, purchase and transport of it; and he did not indulge in clandestine business. He placed reliance on the order dated 29.09.2011 in CrI.P.No.9243/2011 and order dated 03.01.2014 in CrI.P.No.6/2014.

3 . Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

4. In the above referred orders, this Court, in similar circumstances, had held that mere possession of jaggery is not an offence either under the provisions of A.P.Excise Act or A.P.Prohibition Act and unless the petitioner had knowledge that the jaggery purchased from his shop is being used for manufacturing illicit distilled liquor, there is no difficulty in releasing the seized stocks in his favour by way of interim custody and in both the cases this Court had directed the petitioners therein to execute a personal bond with a surety for a specified sum of money to the satisfaction of the concerned Magistrate.

5. Learned Additional Public Prosecutor has not disputed this fact.

6 . In this view of the matter, following the aforesaid decisions, the 2nd respondent is directed to grant interim custody of the seized jaggery in Cr.No.155/2014 and Cr.No.164/2014 on the file of the Noothankal Police Station to the petitioner on petitioner furnishing a personal bond for Rs.3,49,000/- (Rupees three lakh forty nine thousand only).

7. These two criminal petitions are accordingly allowed.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

M.S.RAMACHANDRA RAO,J

Date: 24.04.2015

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