

THE HON'BLE SRI JUSTICE RAJA ELANGO

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CRIMINAL PETITION No.10528 OF 2015

ORDER:

This criminal petition is filed by the petitioner/accused under Section 438 of the Code of Criminal Procedure (CrPC) seeking anticipatory bail in crime No.11 of 2015 on the file of the C.I.D., P.S., Telangana, Hyderabad District, registered for the offence punishable under Section 8(c) read with Sections 21(c), 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and Sections 468 and 471 IPC.

The case of the prosecution is as follows.

The Drug Controller Administration, TS, Hyderabad, received information from the Customs Headquarters Preventive Unit, Shillong, Meghalaya State to the effect that they had effected seizure of 5100 bottles of Phensedyl New Cough Linctus having batch No.PHB 4136 of Abbott Healthcare Private Limited while smuggling to Bangladesh on 12.06.2014. On receipt of the said information, the Drug Inspectors inspected certain firms and found purchase and sale of Phensedyl New Cough Linctus 100 ml., with different batches to non-existing/closed/unlicensed firms. Further, it is alleged that number of persons are involved in this crime and various distributors supplied the said medicine to the medical shops, which are not having valid licences. It is alleged that the petitioner purchased the said medicine from the Abbott Healthcare Private Limited and sold the same to various distributors, which are not having valid licences.

Learned counsel for the petitioner submitted that the petitioner being a Distributor purchased the said medicine from Abbott Healthcare Private Limited, which is a manufacturer of the said drug, and the petitioner sold the same to different distributors.

Learned Public Prosecutor filed counter stating that the petitioner had purchased a huge quantity of Phensedyl new cough linctus 30,000x100 ml bottles from M/s.Abbott Healthcare Private Limited through its C&F Agencies, and sold the

same to various distributors, which are not having valid licences. On further investigation, it came to light that the petitioner company had illegally diverted 30,000 x100 ml bottles. It is further stated that the petitioner connived with others and indulged in illegal transportation of huge commercial quantity of cough syrup which contains Narcotic Substance of Codeine Phosphate beyond prescribed limits.

Learned counsel for the petitioner produced a copy of its licence, which is valid upto 31.12.2016. He further submitted that the allegations made in the FIR against the petitioner do not constitute the offences as alleged against it.

On perusal of the material available on record, it is apparent that at the time of selling the medicine in question, which contains Narcotic substance according to the case of the prosecution, the petitioner is the Distributor and he has sold the same to the invalid licence holders. The truth or otherwise of the validity of the licence is a matter to be investigated into during the course of investigation.

Insofar as the petitioner is concerned, nothing is recovered from the petitioner prior to registration of the crime or after registration of the crime. In view of the same, this Court feels that grant of anticipatory bail to the petitioner, who purchased medicine in question from Abbott Healthcare Private Limited, which is a manufacturer of the said drug, will not cause any prejudice to the investigating agency. Further, it is informed by the learned counsel for the petitioner that the petitioner is ready to cooperate with the investigating agency and to produce all the invoices so as to substantiate purchase of the medicine genuinely from the Abbott Healthcare Private Limited and also the bills pertaining to the selling of the medicine in question to various shops.

Considering the above facts and circumstances of the case and the submissions made by the learned counsel for the petitioner, this Court is inclined to grant anticipatory bail to the petitioner.

The petitioner is directed to surrender before the Court concerned on or before 30th November, 2015 and on such surrender, the petitioner shall be released on bail on his executing a personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties for the like sum each to the satisfaction of the Court concerned. The petitioner is directed to report before Station House Officer concerned daily between 10.00 a.m., and 5.00 p.m., until further orders.

The criminal petition is accordingly allowed.

JUSTICE RAJA ELANGO

28.10.2015

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