

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.6 OF 2015

ORDER :

The petitioner, who is A-2 filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with Crime No.1 of 2014 of Madaram Police Station, Adilabad District, which was initially registered for the offence punishable under Section 174 Cr.P.C and subsequently altered to Section 304-II of IPC and Section 37-A(i) of A.P. Excise Act, 1968.

The case of prosecution is as under :

On 31.01.2014 at about 8.00 a.m., the informant lodged a report stating that his elder son by name Mitta Santhosh, was working as lorry driver by staying at Rebbena. On 30.01.2014 at about 11.00 a.m., he came to his house and went away to his in-law's house. According to him, his son M.Santhosh (deceased) was habituated to consume Toddy. On the said date one person by name Kursinga Mallaiah, resident of the said village died. As no relatives were present, the villagers contributed money and held his funerals. After the last rites, the deceased and others consumed toddy at Vaddera colony. Due to excess consumption of toddy, the deceased could not go to his house and as such he stayed in front of the house of Kursinga Mallaiah. During the intervening night, he died on the pathway near the house of Kursinga Mallaiah. On 31.01.2014 at about 6.00 a.m., the wife of Kursinga Mallaiah and others noticed the deceased lying in front of their house. The same was informed to the informant, who went there and found his son dead and foul smell was emanating. According to him due to excess consumption of toddy his son died. On the basis of

the said report, the above case came to be registered.

Learned counsel for the petitioner submits that the allegations made by the prosecution that the deceased died due to consumption of toddy, which is adulterated with chloral hydrate along with ethyl alcohol is incorrect. According to him, there is abnormal delay in sending the toddy sample to the laboratory and as such it cannot be said that the death was due to the consumption of toddy adulterated with chloral hydrate.

Learned Public Prosecutor opposed the application contending that the post mortem report reveals that the death of the deceased due to consumption of chloral hydrate along with ethyl alcohol and as such the petitioner is not entitled for anticipatory bail.

A perusal of the material placed before the Court would disclose that A-1 was arrested and released on bail. Insofar as the petitioner is concerned, the learned counsel for the petitioner submits that the petitioner is a President of tappers society and as such he has nothing to do with the sale of toddy which the deceased has consumed. On Instructions the learned Public Prosecutor placed before the Court the licence issued for retail sale of toddy, wherein the petitioner was shown to be the licence holder of shop No.2 at Tandur Mandal, Adilabad District. The counsel for the petitioner tried to impress upon the Court by contending that there is no material placed before the Court to show that the liquor was seized from the shop of the petitioner. But, the record reveals that the said licence was handedover to police by A-1 after his arrest. Further, A-1 is alleged to have confessed stating that the said toddy was mixed with chloral hydrate at the instance of the petitioner who is his employer and owner of the shop. Viewed from any angle, the material discloses that the

petitioner is the owner of the shop from where the deceased purchased toddy and consumed it. In fact the post mortem report clearly discloses that the Viscera contained chloral hydrate. The report of the F.S.L. which was received by the investigating agency clearly disclose the presence of chloral hydrate substance along with ethyl alcohol. Similarly the two toddy bottles which were sent for analyst though at a belated stage, do contain chloral hydrate. Having regard to the nature of the allegations made and taking into consideration the seriousness of the offence, I am not inclined to grant anticipatory bail to the petitioner. However, the petitioner, if so advised shall appear before the concerned court and move an application seeking regular bail after giving prior notice to the Public Prosecutor in which event the concerned Court shall dispose of the same in accordance with law at the earliest.

With the above direction, the Criminal Petition is disposed of.

C. PRAVEEN KUMAR, J

Date: 23.01.2015

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