

**THE HON'BLE SRI JUSTICE RAJA ELANGO**

**CrI.R.C. No.950 of 2015**

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**ORDER**

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Petitioner preferred the present Criminal Revision Case by invoking the provisions under Sections 397 and 401 of the Code of Criminal Procedure being aggrieved by the order dated 01-04-2015 passed by the Deputy Commissioner of Prohibition and Excise – 2<sup>nd</sup> respondent herein in Cr.No.71/2015/B.

2. Heard.

3. When the petitioner approached the 2<sup>nd</sup> Respondent with the present application under Section 43(a) of A.P. Excise Act and under Section 451 of Cr.P.C. read with Section 46(E) of A.P. Excise Act, seeking release of the seized property of 210 bags of black jaggery and 30 bags of Alum which was seized in F.I.R. No. 365 of 2014, dated 28-12-2014 of Surya Pet Police Station, the 2<sup>nd</sup> Respondent vide impugned order disposed of the petition directing the petitioner to submit a FDR for Rs.2,73,000/- to release property.

4. The learned counsel for the petitioner submits that the black jaggery is an agricultural produce and there is no law prohibiting sale, purchase and transport of jaggery and the Commissioner of Prohibition and Excise A.P., Hyderabad issued certain instructions in Cr.No.4294/DPF/2001/C5, dated 22-12-2001 wherein he specifically instructed that all the excise authorities not to cause any undue harassment whoever in respect of genuine trade transaction of jaggery covered by valid permits. Further, the Government also issued Memo. No.47802/Ex.III 1/2006-13, dated 20-12-2010 wherein it was held that the jaggery or rotten jaggery or any other form of jaggery are viewed as agricultural produce or its bi-products and not to impose restriction on any agriculture produce. Hence, the learned counsel for the petitioner submits that the impugned order passed by the 2<sup>nd</sup> responding directing the petitioner to submit a FDR for Rs.2,73,000/- to release property is excessive and exorbitant.

5. Considering the facts and circumstances, the seized property of 210 bags of black

jaggery and 30 bags of Alum in the above referred crime shall be entrusted to the interim custody of the petitioner on his execution of a personal bond for Rs.2,73,000/- (Rupees Two Lakhs Seventy Three Thousand only) before the Magistrate / Authority concerned.

6. Accordingly, the Criminal Revision Case is allowed.

7. Miscellaneous petitions filed in this revision, if any, shall stand closed.

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**JUSTICE RAJA ELANGO**

09<sup>th</sup> June, 2015

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