

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.2363 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. being aggrieved by the order dated 12-02-2016 in CFR No.799 of 2016 in P.R.No.1011 of 2015-16 on the file of Additional Judicial First Class Magistrate, Nirmal, whereby and whereunder the request for release of Black Jaggery was rejected.

Heard and perused the material available on record.

The petitioner herein filed a petition in CrI.M.P.No.232 of 2016 in P.R.No.1011 of 2015-16 under Section 451 Cr.P.C. seeking release of 350 bags Black Jaggery each containing 10 Kgs seized by the Excise officials in connection with Crime in P.R.No.1011 of 2015-16 for the offence punishable under Section 7 (A) of A.P. Prohibition Act and Section 34 (c) of A.P. Excise Act. The learned Additional Judicial First Class Magistrate, Nirmal returned the said application stating that the application is not maintainable in view of Section 46 of A.P. Excise Act. Aggrieved by the same, the present criminal petition is filed.

Learned Counsel for the petitioner submits that the Court below has jurisdiction to entertain the above application and direct the authorities concerned to release the seized property and that the value of the seized stocks will be diminished if they are kept idle in the premises of Prohibition & Excise station.

Admittedly, Black Jaggery seized from the possession of the petitioner in the above crime is not prohibited article under any law and its possession is also not barred by the provisions of any

Statute.

Considering the facts and circumstances of the case, the property of 350 bags of Black Jaggery each containing 10 Kgs seized in the above referred crime shall be given for interim custody to the petitioner on his execution of a bank guarantee equivalent to the value of Rs.73,500/- (Rupees seventy three thousand and five thousand only) to the satisfaction of the Additional Judicial First Class Magistrate, Nirmal.

Accordingly, the Criminal Petition is allowed. Consequently, miscellaneous petitions filed in this revision, if any, shall stand closed.

RAJA ELANGO, J

Date: 24-02-2016

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