

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.2458 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. being aggrieved by the order dated 12-02-2016 in CrI.M.P.No.1011 of 2016 in Crime No.945/2015-16 of Prohibition and Excise Police Station, Vissannapeta, Krishna District, passed by the Judicial Magistrate of First Class, Tiruvur, 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.1011 of 2016 under Section 451 Cr.P.C. seeking release of 34 bags Black Jaggery each containing 50 Kgs and 19 cartoons of white jaggery each containing 20 Kgs seized by the Excise officials in connection with Crime in Crime No.945/2015-16 of Prohibition and Excise Police Station, Vissannapeta, Krishna District for the offence punishable under Section 7 (A) read with Section 8 (e) of A.P. Prohibition Act and Section 34 (e) read with Section 34 (2), 13 (1) (f), 42 (c) of A.P. Excise Act. The learned Judicial First Class Magistrate, Tiruvur, dismissed the said application holding that the Deputy Commissioner of Prohibition and Excise is the competent authority to pass the orders and the Court has no jurisdiction to receive property and pass orders for disposal of the same. 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 and Alum seized from the possession of the petitioner in the above crime are 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 34 bags Black Jaggery each containing 50 Kgs and 19 cartoons of white jaggery each containing 20 Kgs seized by the Excise officials in connection with Crime in Crime No.945/2015-16 of Prohibition and Excise Police Station, Vissannapeta, Krishna District shall be given for interim custody to the petitioner on his execution of a bank guarantee equivalent to the value of Rs.20,000/- (Rupees twenty thousand only) to the satisfaction of the Judicial Magistrate of First Class, Tiruvur.

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

RAJA ELANGO, J

Date: 25-02-2016
Ksn