

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.31436 of 2017

ORDER:

Heard counsel for the petitioner and the Government Pleader for Excise appearing for respondents.

2. Petitioner had filed this Writ Petition assailing the proceedings of the 2nd respondent forfeiting a bond of Rs.50,000/- given by the petitioner for good behaviour and simultaneously asking the petitioner to give explanation, as to why legal action should not be taken against him.

3. Counsel for petitioner contends that forfeiture of the bond by the 2nd respondent even before the petitioner submits his explanation is arbitrary, illegal and merely because an allegation is leveled against him, it cannot be said that petitioner is convicted of the offence alleged and violated the bond furnished by him for maintaining good behaviour. He placed reliance on the order dt.06.06.2017 in W.P.No.17079 of 2017.

4. The Government Pleader for Excise appearing for respondents does not dispute the legal principle that mere arraignment in an offence cannot be taken as conviction and it cannot be said that the petitioner had committed a breach of the bond furnished by him for maintaining good behaviour.

5. Apart from that, the impugned order itself speaks of forfeiture of the amount even before the petitioner submitted his explanation

showing cause why it should not be forfeited. This is clearly against the principles of natural justice.

6. Therefore, this Writ Petition is allowed and the impugned order dt.04.09.2017 is set aside. In the event of the petitioner is affected of the offence alleged, then only the respondents can take any action for forfeiture of the bond furnished by him. No costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

15th September, 2017.
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M.S.RAMACHANDRA RAO, J

