

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6454 of 2017

ORDER:

1 This Criminal Petition is filed, by the petitioner/A.2, under Section 438 Cr.P.C., seeking anticipatory bail in Crime No.72 of 2017 on the file of the Station House Officer, VI Town Police Station Nellore, registered for the offences punishable under Sections 34 (a) of the A.P. Excise Act.

2 The learned counsel for the petitioner submitted that the petitioner was falsely implicated in this case. He further submitted that even if the allegations made in the complaint are ex facie taken to be true and correct, no prima facie case is made out against the petitioner, therefore, it is a fit case to grant pre-arrest bail to the petitioner.

3 *Per contra*, the learned Additional Public Prosecutor submitted that the petitioner, taking the assistant of the accused No.2, was selling liquor in violation of the conditions of the licence for higher rates.

4 It is the case of the prosecution that on 03.07.2017 accused No.2 was selling liquor in quarter bottles to the public on behalf of the petitioner. The Excise officials seized 17 quarter bottles of liquor from the accused No.2, which belongs to the shop of the petitioner. After completion of necessary formalities, the above crime was registered against the petitioner and another.

5 A perusal of the record reveals that the petitioner filed CrI.M.P.No.670 of 2017 under Section 438 Cr.P.C. on the file of the Court of the I Additional District & Sessions Judge, Nellore and the same was dismissed on 20.07.2017.

6 A perusal of the record reveals that the petitioner has been carrying on liquor business in Nellore town after obtaining necessary licence from the competent authority.

7 A perusal of Section 34 (a) of the A.P. Excise Act clearly demonstrates that a person who is having liquor licence has to sell the same within the premises permitted by the competent authority. A perusal of the record prima facie reveals that the petitioner has given nearly 17 quarter bottles to the accused No.2 to sell the same at higher rate than the MRP rate to the public in different places. It is not in dispute that the bottles seized from the accused No.2 belong to the batch number allotted to the petitioner's shop. A perusal of the record reveals that for one reason or the other, wine shops in Nellore town were closed for two days including the date of the alleged offence. A perusal of the record prima facie reveals that the petitioner contravened the provisions of Section 34 (a) of the A.P. Excise Act and was selling liquor at higher rate for personal gain.

8 Taking into consideration the gravity of the offence alleged to have been committed by the petitioner and the stage of the investigation, this court is of the considered view that this is not a fit case to grant anticipatory bail to the petitioner.

9 In the result, the petition is dismissed.

Date: August 28, 2017
Kvsn

T.SUNIL CHOWDARY, J