

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.3847 of 2017

ORDER:

In this petition filed under Section 438 Cr.P.C, the petitioner/A2 seeks pre-arrest bail in PCOR No.65 of 2017 of Prohibition and Excise PS, Kalwakurthy which was registered against the petitioner and other accused for the offence under Section 7(A) r/w 8(e) of A.P. Prohibition Act, 1995 and Section 34(3) of A.P. Excise Act, 1968 r/w (3) and (4) G.U.R. (Regulation of Use) Control Order, 1968.

2) The prosecution case is that on 21.04.2017 at 12.30 PM, P&EI A.C.Enforcement and P&EI SHO, Kalwakurthy along with staff conducted route watch at J.P.Nagar Tanda Circle basing on reliable information regarding illegal transport of jaggery and alum in Maruthi Omni car from Hyderabad. During the route watch they found jaggery and alum in the aforesaid vehicle and seized the contraband. Basing on the confession of A1 they proceeded to J.P.Nagar and detected and seized the contraband and arrested A1 and A4, A5 and A6 are absconding.

3) The further case of the prosecution is that A1 revealed about source of jaggery and alum and basing on which the raid party proceeded to Hyderabad and went to H.No.15-2-797, old Osman Gunj, Hyderabad. As it was revealed huge storage of black jaggery was made, police issued search memo and conducted search and seized the black jaggery. In continuation of investigation on reliable information from A7 about storage of black jaggery for manufacture of ID liquor, they proceeded to

Shop No.194, Sai Krupa Market, Malakpet, Hyderabad and issued search memo and on search they found the property as shown in column 10 of the proceedings along with A8 and he allegedly disclosed jaggery belongs to A2 who was absconding. They seized the contraband.

4) Denying the charges, bail is pleaded mainly on the submission that the police visited the petitioner's shop and godown and seized the stock under the cover of panchanama on the ground that jaggery and alum are likely to be used by the purchasers from his shop for preparation of ID liquor. It is argued mere transportation and possession of jaggery and alum is neither prohibited nor regulated under law and no licence is required to deal with jaggery and alum. The police without any basis seized the stock on mere assuming that jaggery and alum are likely to be used for preparation of ID liquor.

5) Per contra, while opposing the bail, learned Addl.P.P. submitted that huge quantity of black jaggery and alum were seized basing on the confession of other co-accused. In the seizure report it was clearly mentioned that the black jaggery found in the premises of A2 was spoiled and not meant for human consumption and it was only meant for preparation of ID liquor and therefore though in general the possession of black jaggery and alum is not an offence, but here the purpose for storing them is manifest i.e. it is intended to sell to those who illicitly distill the liquor. He thus prayed to dismiss the petition.

6) As can be seen from the record, huge quantity of black jaggery and alum are found in the premises of petitioner/A2 during the search

conducted by the Excise officials basing on the confession made by co-accused. It is true mere possession of black jaggery and alum is not an offence under Section 34(e) r/w Sections 34(2) and 13(1)(f) of A.P. Excise Act unless such possession is intended for manufacture of ID liquor. In the seizure report it is clearly mentioned that reddish black jaggery that was seized was emitting bad smell and spoiled and it was not meant for human consumption and it was intended only for preparation of ID liquor.

7) In that view of the matter, this Court finds a strong *prima facie* case against petitioner/A2. Of course, the real purpose of storing huge quantity of such a spoiled black jaggery and alum has to be determined only after a full-fledged investigation. As the matter stands, the petitioner/A2 does not deserve bail. Hence, while dismissing the bail application the petitioner/A2 is directed to surrender before the concerned Court and seek for regular bail in which case, the said Court shall dispose of the bail application on merits on the same day.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 19.07.2017

Murthy