

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.29220 of 2017

ORDER:

This Writ Petition is filed by the petitioner, under Article 226 of the Constitution of India, seeking to declare the action of the 2nd respondent in not releasing the stock i.e., 700 boxes of Red jaggery each containing 20 Kgs., total 14000 Kgs seized in C.O.R.No.141/2017 (wrongly mentioned as C.O.R. No.141/2016) *in spite* of the readiness of the petitioner to furnish the third party surety, as illegal, arbitrary and unjust and consequently direct the 2nd respondent to issue orders for release of the above said stock.

Heard and perused the material available on record.

The case of the petitioner is that he is engaged in the business of purchase and sale of black jaggery and other kirana items in the name and style of M/s. Sri Bolisetti Ashok Kumar, Oil Jaggery General Merchant, Bus Stand Road, Khammam. On 24.08.2017, the 3rd respondent stopped the petitioner's lorry bearing Reg.No.MH-12-HD-7817 and seized the vehicle along with the entire stock i.e., 700 boxes of Red Jaggery, which was purchased from a wholesaler at Maharashtra and on the same day, the 3rd respondent registered a case in C.O.R.No.141/2017

under Section 7(A) r/w 8(e) of the A.P. Prohibition Act, 1995 and Section 34(e) of the A.P. Excise Act, 1968.

Learned counsel for the petitioner submitted that the petitioner is the owner of the stock of 700 boxes of Red jaggery each containing 20 kgs seized in C.O.R.No.141/2017 and that the value of the seized property will be diminished if it is kept idle in the premises of 3rd respondent. He further submitted that the petitioner is ready to furnish sufficient surety.

Learned Government Pleader for Excise for respondents objected for the same.

Admittedly, Red jaggery seized in the above referred crime is not a prohibited article under any law and its possession is also not barred by the provisions of any Statute.

Considering these circumstances, the petitioner is directed to make an application before the Deputy Commissioner of Prohibition & Excise, Khammam (2nd respondent) enclosing thereto a Fixed Deposit Receipt (FDR) drawn in favour of the 2nd respondent on any nationalized bank for a sum of Rs.1,80,000/- (Rupees one lakh eighty thousand only) and, on such application being made, the interim custody of 700 boxes of Red jaggery each containing 20 kgs seized in C.O.R.No.141/2017 shall be entrusted to the interim custody of the petitioner.

With the above directions, the Writ Petition is disposed of.
There shall be no order as to costs. Miscellaneous Petitions
pending, if any, in this Writ Petition shall stand closed.

A.V.SESHA SAI, J

30th August, 2017

Tsy

