

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.21004 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., 250 bags of black jaggery each containing 50 Kgs., seized in C.O.R.No.263 of 2017 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.

2. Heard and perused the material available on record.

3. The case of the petitioner is that the petitioner is engaged in the business of purchase and sale of jaggery and other kirana items in the name and style of M/s. Sri Vijaya Laxmi Traders at Indira Market, Bhadrachalam. On 23.06.2017, the 3rd respondent, who alleged to have apprehended some manufacturers of illicit liquor and with a *mala fide* intention under the guise of confession, visited the shop of the petitioner and seized the entire stock i.e., 300 bags of black jaggery, which was purchased from a wholesaler at Chittoor and on the same day, the 3rd respondent registered two different cases i.e., C.O.R.No.263 of 2017 and C.O.R.No.264 of 2017 by showing 250 bags in C.O.R.No.263 of 2017 and 50 bags in C.O.R.No.264 of 2017 under Sections 7(A) & 8(e) of the A.P. Prohibition Act, 1995 read with Section 34(e) of the A.P. Excise Act, 1968.

4. Learned counsel for the petitioner submitted that the petitioner is the owner of the stock of 250 bags of black jaggery

each containing 50 kgs seized in C.O.R.No.263 of 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.

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

6. Admittedly, black 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.

7. 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.1,25,000/- (Rupees one lakh twenty five thousand only) and on such application being made, the interim custody of 250 bags of black jaggery each containing 50 kgs seized in C.O.R.No.263 of 2017 shall be entrusted to the interim custody of the petitioner.

8. 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.

RAJA ELANGO, J

Date: 28th June, 2017

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