

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3795 OF 2017

ORDER:

The present petition is filed under Section 438 of the Criminal Procedure Code, 1973 (for short, 'the Code') requesting to grant anticipatory bail in Crime No.83 of 2017 of Mallapur P.S., Jagtial District.

2. The petitioner, who is arraigned as accused, alleged to have committed the offences punishable under Section 34 (a) of Andhra Pradesh Excise Act, 1968 (for short, 'the Act').

3. Heard Sri K. Venu Madhav, the learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana.

4. The learned counsel would submit that now there is no prohibition regarding consumption of liquor and Valgonda village is remote village and since there was a function in the relatives' house, they requested the petitioner to assist him in purchasing and bringing liquor bottles for the function and except that the petitioner has not at all committed any offence, and, therefore, sought to grant anticipatory bail.

5. The learned Additional Public Prosecutor for the State of Telangana would resist the request contending that the petitioner was found selling Indian Made Foreign Liquor in the village with higher

rates without any valid licence or permit and when the police party reached the spot he was unavailable in the spot and leaving away IMFCL Liquor (1) MC No.1 Whisky full bottles worth Rs.880/-; (2) IB full bottles worth Rs.880/-; (3) IB quarter bottles worth Rs.330/-; 10 MC. Whisky 90 ML bottles worth Rs.600/-; 25 HI-LYF Whisky quarter bottles worth Rs.1625/-; 100 Scotts Man Select Whisky 90 ML bottles worth Rs.4,000/-; 35 Knockout Beers worth Rs.3,850/-; 30 Royal Challenge beers worth Rs.2,700/-; 10 Haywards 5000 beers worth Rs.2,090/-; and thus, total worth Rs.16,955/- were seized in the presence of mediators.

6. It is according to the learned Additional Public Prosecutor that in case anticipatory bail is granted there is every likelihood of committing similar type of offences again and, therefore, sought to dismiss the petition.

7. Perused the complaint allegations and the Case Diary file.

8. When there is violation of the relevant provisions of the Act, grant of anticipatory bail does not arise, more particularly in cases of this nature where Indian Made Foreign Liquor is being sold without any valid licence, it cannot be ruled out that he would not commit the very same offence again. It is not a case where to treat it as a special case to grant anticipatory bail as the parameters for grant of anticipatory bail are not occurring in the present petition.

9. Therefore the Criminal Petition is dismissed.

10. The learned counsel for the petitioner, when the orders were dictated, urges to direct the investigating officer to follow the procedure prescribed under Section 41-A of the Code. The Station House Officer, Mallapur P.S. is directed to follow the procedure under Section 41-A of the Code, if applicable to excise cases and so also the directions given by the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar**¹.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition shall stand closed.

Dt. 10.07.2017
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A. SHANKAR NARAYANA, J



¹ (2014) 8 SCC 273