

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.8965 OF 2017

ORDER:

Heard learned counsel for the petitioner/accused and learned Public Prosecutor representing the State and perused the F.I.R. in C.O.R.No.84 of 2017 of the Station House Officer, Prohibition and Excise Station, Jadcherla, registered for the offences punishable under Sections 8(c) r/w 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short 'the Act'), based on the seizure panchanama of the toddy which contains from the F.S.L. report dated 04.05.2017 of the tests of Diazepam-positive, Alprazolam-negative, Chloral Hydrate-negative, Alcohol-positive, and reducing sugars-positive. However, there is no proof as to the quantity in the contents from the seized quantity in question with reference to the sample to determine the said psychotropic substance is above small quantity. Leave about any commercial quantity or not in the absence of such it can be considered as a small quantity within the meaning of Section 22-A of the Act, which is punishable below three years and not even triable by the Special Court, but for, before the learned Magistrate concerned and with reference to Section 36-A of the Act, as also observed by this Court in similar case granting bail in CrI.P.No.5735 of 2014 dated 02.07.2014 there is nothing from the conscious

possession, presumption available for the accused to rebut during trial, to quash the said crime proceedings, but for, to say the petitioner is entitled to the concession of Section 41-A Cr.P.C. and the guidelines of the Apex Court in Arnesh Kumar v. State of Bihar¹

Accordingly, the Criminal Petition is disposed of.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 03-10-2017

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¹ (2014 (2) ALT (CrI.) 457 SC)