

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.37689 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed assailing the action of the second respondent in rejecting to release the stocks i.e., 311 bags of Black Jaggey each containing 42 Kgs. (13,062 Kgs.) seized in Crime No.234 of 2017 on the file of the Hasanparthy Police Station, Warangal District.

Learned counsel for the petitioner submits as follows: 'The petitioner is running a small kirana shop at his native village i.e., Ankisa, Gadchirpli District, Maharashtra State. He purchased the Black Jaggerly from the wholesalers so as to sell the same to the retailers. The said Black Jaggerly was seized and was produced before the second respondent, who is the competent authority under the provisions of the Andhra Pradesh Excise Act, 1968 (for short, 'the Act'). Black Jaggerly is not an excisable article as per the provisions of the Act and Government Orders. Hence, the petitioner is entitled to release of the Black Jaggerly seized. The value of the Jaggerly would be approximately Rs.1,30,000/-.'

Learned Government Pleader appearing for respondents 1 to 3 would submit that since the seizure of the Black Jaggerly is reported to the second respondent, the Deputy Commissioner of Prohibition and Excise, he is competent to pass appropriate orders; the petitioner has to approach the said competent authority for release of the Black Jaggerly. Learned Government Pleader would also submit that the value of the Black Jaggerly seized would be more than Rs.2,50,000/-. He would further submit that since the Black Jaggerly is in huge quantity and a crime has been registered,

the petitioner may be directed to furnish a Fixed Deposit Receipt in stead of a personal bond to meet the ends of justice.

I have given earnest consideration to the facts and submissions.

Learned counsel for the petitioner submits that in similar cases with identical facts, this Court is releasing the stocks of Black Jaggery and that in this case also an appropriate order releasing the stock of Black Jaggery may be passed in the interest of justice.

Having regard to the facts and submissions, the second respondent is directed to release the stocks of the petitioner i.e., 311 bags of Black Jaggery each containing 42 Kgs. (13,062 Kgs.) seized in the aforestated crime, on condition of the petitioner furnishing a Fixed Deposit Receipt for Rs.75,000/- (Rupees seventy five thousand only) in favour of the Deputy Commissioner of Prohibition and Excise, Warangal Division. However, this order shall not preclude the authorities concerned from further proceeding in the matter in accordance with procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

M. SEETHARAMA MURTI, J

Date: 13.11.2017
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