

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.10619 OF 2017

ORDER:

This petition is filed under Section 438 Cr.P.C. to grant anticipatory bail to the petitioners-A1 and A2 for the offence alleged under Sections 31 (i) (b) of A.P. Excise Act , 36 (i) (b) & (c) r/w 36 (i) (j), 34 (a), 14 (ii) r/w Condition No.2 of 2B licence and Provision of Rule 4 of Bar Rules 2017 and Sections 41 and 50A of the A.P. Excise Act, 1968.

2. Heard learned counsel for the petitioners-A1 and A2, learned Additional Public Prosecutor representing the State and perused the record.

3. Learned counsel for the petitioners-A1 and A2 would submit that the petitioners-A1 and A2 are innocent persons and they are falsely implicated in this case. One crime is also registered regarding similar accusation by the police concerned. This present crime is registered by the Excise Officials. Two crimes are not maintainable. The petitioners-A1 and A2 have not violated the terms and conditions of the licence granted to them by the Excise Department and ultimately, prayed to allow the petition.

4. On the other hand, learned Additional Public Prosecutor opposed the grant of bail to the petitioners-A1 and A2.

5. It is brought to the notice of this Court that when the premises of the petitioner-A2 was raided on 20.08.2017 at about 9.45 P.M., the Excise Officials were also deterred from discharging their duties. Therefore, on a report lodged with the police, a crime was registered for the

offences punishable under Sections 332, 353 and 342 r/w 34 IPC. It is also alleged that when the raid was conducted in the instant case at the instance of the Director of Enforcement, Prohibition & Excise, Vijayawada, liquor bottle was found without seal. They also found sale of the liquor bottles outside the subject bar. The petitioner-A1 was conducting the sales in the bar. He is not a licensee and there was no noukarnama in his favour. Further, the petitioner-A2 is the licensee. He is not supposed to sell the liquor without seals and also outside the bar. The petitioners have violated the terms and conditions of the licence. Enquiry was also ordered with regard to the licence. When there is alleged interference of the accused with the Excise Officials, they are entitled to lodge a complaint before the Police for the offences under the Penal Code. As the petitioners violated the terms and conditions of the licence, the Excise Officials are entitled to register a crime and investigate in accordance with the procedure established. Therefore, it cannot be said that two complaints are not maintainable.

6. Learned counsel for the petitioners-A1 and A2 relied on a decision reported in **T.T.ANTONY V STATE OF KERALA AND OTHERS** ¹ and contended that similar situation is in this case. The facts of the case in the above decision are distinct to the facts in the instant case. The allegations are specific and gave against the petitioners-A1 and A2. The matter requires thorough examination. There is possibility of the petitioners-A1 and A2 winning over the witnesses and causing disappearance of the evidence.

¹ (2001) 6 SCC 181

7. Under these circumstances, it is not a fit case to grant bail to the petitioners-A1 and A2 under Section 438 Cr.P.C.

8. Accordingly, the Criminal Petition is dismissed.

DR.SHAMEEM AKTHER, J

DATED: 22-11-2017

Hsd

