

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.43465 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner, seeking to declare the action of the respondents 2 & 3 in not releasing the petitioner's stock of 25 boxes of white jaggery, each box containing 20 kgs (i.e., total 500 kgs) seized in P.R.No.175 of 2017, on the file of the Station House Officer, Sirpur Kagaznagar Prohibition and Excise, Komarambheem Asifabad District (3rd respondent), in spite of the readiness of the petitioner to furnish personal bond and third party surety, as illegal, arbitrary and unjust and consequently direct the said respondents to issue orders for release of the above said stock.

2. I have heard the submissions of Sri *K.Laxmaiah*, learned counsel for the petitioner, the learned Government Pleader for Prohibition and Excise appearing for the respondents 1 & 2, and of the learned Government Pleader for Home appearing for the 3rd respondent. I have perused the material record.

3. Learned counsel for the petitioner would submit that in matters with identical facts, this Court is releasing the stock subject to conditions and prayed for releasing the stock on the same lines and the same terms. He placed on reliance of a decision of this Court, dated 18.09.2017, in W.P.No.31682 of 2017. He further submitted that the petitioner is prepared to give a personal bond or give immovable property security for the value of the Jaggery, which is approximately Rs.5,000/-.

4. However, learned Government Pleader for Prohibition and Excise, appearing for the respondents 1 & 2, having placed reliance on a decision, dated 28.06.2017, of this Court in a similar matter in W.P.No.21004 of 2017, submitted that the petitioner may be directed to furnish a Fixed Deposit Receipt in favour of the 2nd respondent instead of directing him to furnish a personal bond or immovable property security.

5. However, considering the facts that the quantity and the value of the quantity involved are very small, this Court is satisfied that there is no need to direct the petitioner to furnish a Fixed Deposit Receipt.

6. Having regard to the facts and submissions, the Writ Petition is disposed of directing the petitioner to make an appropriate application before the Deputy Commissioner of Prohibition and Excise, Adilabad District (2nd respondent); and, on such application being made by the petitioner, the subject stock afore-stated shall be given to the interim custody of the petitioner, subject to final orders to be passed in the criminal proceedings, on his executing a personal bond for a sum of Rs.5,000/- (Rupees five thousand only) with one surety for the like sum to the satisfaction of the 2nd respondent.

Miscellaneous petitions pending, if any, shall stand closed.

There shall be no order as to costs.

JUSTICE M. SEETHARAMA MURTI

Date: 20th December, 2017

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