

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.43388 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 870 boxes of white jaggery, each box containing 20 kgs (i.e., total 17,400 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 submits that the value of the subject Jaggery is Rs.1,74,000/-. He further submits that the reasonable amount for which the Fixed Deposit Receipt may be directed to be furnished would be Rs.50,000/- in the facts and circumstances of the case.

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 in view of the huge quantity involved, 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. He further submits that the value of the Jaggery would be more than Rs.2,00,000/-.

5. 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) enclosing thereto a Fixed Deposit Receipt for Rs.90,000/- (Rupees ninety thousand only) drawn in favour of the 2nd respondent on any nationalised bank; and, on such application being made by the petitioner, the subject stock afore-stated shall be given to the interim custody of the petitioner.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 20th December, 2017

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