

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.42084 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 18 quintals (36 bags, each containing 50 kgs.) of Black Jaggery and 1 bag (25 kgs.) of Alum, seized in Crime No.315 of 2017, on the file of the Station House Officer, Thirumalaypalem Police Station, Khammam District (3rd respondent), in spite of the readiness of the petitioner to furnish necessary security and produce relevant sureties, 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 *Chalakani Venkat Yadav*, 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 reliance on a decision of this Court, dated 18.09.2017, in W.P.No.31682 of 2017. He 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.90,000/-.

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 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.

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, Khammam District (2nd respondent) enclosing thereto a Fixed Deposit Receipt for Rs.40,000/- (Rupees forty 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: 14th December, 2017

KL

143

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**WRIT PETITION No.42084 of 2017**Date: 14th December, 2017

KL