

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.44009 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., 45 quintals of Black Jaggery seized in Crime No.267 of 2017, on the file of the Station House Officer, Mudigonda Police Station, Khammam District.

2. I have heard the submissions of Sri *B.Yadaiah*, learned counsel appearing for the petitioner, 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 submits as follows:

The petitioner is running a small kirana shop at village. He purchased the Black Jaggery from the wholesalers so as to sell the same to the retailers. The said Black Jaggery 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 Jaggery 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 Jaggery seized. The value of the Jaggery would be approximately Rs.45,000/-.'

4. Learned Government Pleader for Prohibition and Excise appearing for the respondents 1 & 2 would submit that since the seizure of the Black Jaggery 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 Jaggery. Learned Government Pleader would also submit that the value of the Black Jaggery seized would be more than Rs.2,70,000/-. He would further submit that since the Black Jaggery is in huge quantity and a crime has been registered, the petitioner may be directed to furnish a Fixed Deposit Receipt instead of a personal bond to meet the ends of justice.

5. I have given earnest consideration to the facts and submissions.

6. 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 interests of justice.

7. Having regard to the facts and submissions, the second respondent is directed to release the stocks of the petitioner i.e., 45 quintals of Black Jaggery seized in the afore-stated 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.

JUSTICE M. SEETHARAMA MURTI

Date: 22nd December, 2017

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