

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.3067 OF 2018

ORDER:

This criminal petition, under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to release the petitioner/A.3 on bail in the event of his arrest in connection with Crime No.2 of 2018 of Prohibition & Excise Station, Guduru Sullurupeta Police Station, SPSR Nellore District, registered for the offence punishable under Section 34(a) of The Andhra Pradesh Excise Act (for short 'the Act').

It is the contention of the learned counsel for the petitioner that the offence punishable under Section 34(a) of the Act is bailable offence, but he is still apprehending his judicial custody in case he is arrested and produced before the Magistrate. Therefore, the petitioner approached this court.

According to Section 438 CrPC, when any person has reason to believe that he may be arrested on an accusation of having committed a non- bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail and that Court may, after taken into consideration, pass appropriate order.

Therefore, it is clear from the provision itself that when the offence is bailable, the petitioner is not entitled to approach this court seeking a directing against the police to release the petitioner in the event of his arrest.

Recording the submission that the offence punishable under Section 34(a) of the Act is bailable as contended by the petitioner's

counsel and without verifying as to the offence, I find that the petition is not maintainable under Section 438 of CrPC. Therefore, the petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

M.SATYANARAYANA MURTHY, J

29.03.2018
BV

