

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.7980 of 2019

ORDER :

Petitioners, who are A1 and A2 in PCOR No.22 of 2019 on the file of Prohibition and Excise, Kollapur, Nagarkurnool District, registered for the offence punishable under Section 8 (c) r/w 22 (c) of NDPS Act, filed this petition under Section 438 Cr.P.C. seeking anticipatory bail.

2. Heard learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent State.

3. The case of the prosecution is that on 05.02.2019, the officials of Prohibition and Excise inspected the TSC, Sathapur, by which time, A1 was present and A2 is the licensed person. At that time police found 15 crates containing 12 bottles of toddy of 650 ml each and prepared crime occurrence report by conducting panchanama. Though the chloral hydrate test conducted on the spot gave negative result, on suspicion samples were taken and sent to FSL and on examination, it was found that it is fermented toddy adulterated with Diazepan and Alprazolam.

4. Learned counsel for the petitioners submits that the petitioners were falsely implicated in this case though they never committed any offence, much less the alleged

offence as alleged by the police. The contents of the alleged FSL as well as panchanama conducted by the police do not disclose any cause of action about involvement of the petitioners. The petitioners have not adulterated the toddy and A2 being the licenced vendor run the shop pursuant to the terms and conditions under the licence and the spot test conducted resulted in negative itself shows that there is no adulteration of the toddy. He further submits that even as per the report, there are no specific overt acts against each of the petitioners. The petitioners are law abiding citizens and they are old age persons. The 1st petitioner is suffering from diabetic and 2nd petitioner is suffering from heart ailment. He further submits that the petitioners are ready to furnish sufficient sureties to the satisfaction of the Court if they are released on bail. Hence, he prays to grant anticipatory bail to the petitioners.

5. On the other hand, the learned Additional Public Prosecutor representing the State vehemently opposed the bail application and submits that FSL report has already been received, which indicates the presence of Alprazolam and hence, the petitioners are not entitled for anticipatory bail.

6. Looking into the nature of allegations leveled against the petitioners and since the FSL report clearly indicates the presence of Alprazolam in the samples

collected from the possession of the petitioners,, I am not inclined to grant anticipatory bail to the petitioners.

7. Accordingly, the Criminal Petition is dismissed. However, if the petitioners-A1 and A2 surrender before the concerned Court within 15 days from today and files bail application after giving due notice to the Public Prosecutor, the same may be considered on the same day in accordance with law. Miscellaneous petitions, if any pending shall stand closed.

DATED: 16.12.2019.
Hsd

JUSTICE G. SRI DEVI



