

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.46367 of 2018

ORDER:

The case of the petitioner is that he is engaged in the business of jaggery and other kirana items under the name and style of M/s Kirthi Agrawal at H.No.1-2-213, Sanjeev Colony, Kagaznagar, Komaram Bheem Asifabad District and Godown Kagaznagar, Komaram Bheem Asifabad District, with due licenses and permissions. He further states that he purchased 84 cartons of white jaggery weighing 1680 kgs from a wholesaler and stored in his premises. While so, on 15.11.2018, allegedly on the information that the petitioner is selling jaggery to ID Liquor manufacturers, the Prohibition and Excise officials of Kagaznagar conducted surprise check and seized the jaggery, and registered a case in Crime No.331 of 2018 for the offences punishable under Section 34(e) of the A.P. Excise Act, 1968 and Section 3(b) and 4(1)(iii) of GUR (Regulation of Excise) Order, 1968. Thereafter, the petitioner approached the respondents requesting to release his jaggery stocks and also expressed readiness to furnish third party surety, but the respondents are not taking any action for release of the seized stock.

Learned counsel for the petitioner submits that the petitioner is a *bona fide* shopkeeper dealing with essential kirana and general commodities, and purchased jaggery as part of his kirana business, and the petitioner is not involved in any illegal act of selling jaggery to ID liquor manufacturers, but the respondent authorities conducted a surprise check and, without issuing notice to the petitioner or affording an opportunity, seized his jaggery stock on the ground that he is doing illegal business of selling jaggery to liquor manufacturers; and the respondent Nos.2 and 3 are not releasing the stock

and therefore seeks direction to the respondents to release the seized jaggery stock of the petitioner.

Learned Government Pleader for Prohibition and Excise submits that the petitioner is a habitual offender, involved in six cases of selling jaggery at various places to ID liquor manufacturers. He further submits that a case has already been registered against the petitioner and the matter requires further investigation. He also submits that in terms of Section 34 of the Act, the Deputy Commissioner of Excise is the authorised Officer to adjudicate upon the matter; as such the petitioner may approach the said authority seeking release of the seized stock of jaggery.

In those circumstances, the Writ Petition is disposed of giving liberty to the petitioner to approach the 2<sup>nd</sup> respondent-Deputy Commissioner of Excise under Section 34 of the Act, by way of an appropriate application seeking release of the seized jaggery stock, pending adjudication of the main case. As and when such application is made, the Deputy Commissioner shall consider the same and pass appropriate orders within ten days from making the application, keeping in view that jaggery is a perishable item. No costs. Miscellaneous Petitions, if any pending, shall stand closed.

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CHALLA KODANDA RAM, J

04<sup>th</sup> April, 2019

KSM

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