HIGH COURT FOR THE STATE OF TELANGANA
(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 38473 OF 2016

Between:

Karnati Srinivas, S/o.Sri Ramulu, Aged about 45 Years, Occ: Business, R/o. Devarakonda, Nalgonda District.

...PETITIONER

AND

1. The State of Telangana, rep. by it's Principle Secretary, Excise Department, Secretariat Buildings, Hyderabad.
2. The Executive Magistrate and Tahsildar, Devarakonda Mandal, Nalgonda District.
3. The Station House Officer, Prohibition and Excise Station, Devarakonda P.S., Nalgonda District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the Impugned Notice in M.C.No.4035/A/2016, dt.16-09-2016 issued by the 2nd Respondent as illegal, arbitrary, unjust, contrary to the provisions of Criminal Procedure Code and Violative of Principles of Natural Justice, Unconstitutional and consequently set-aside the same.

WPMP. NO: 47408 OF 2016

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay of all further proceedings in pursuance of the impugned notice in M.C.No.4035/A/2016, dt.16-09-2016 issued by the 2nd Respondent, pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI NOOKA JAGANNADHAM (not present)

Counsel for the Respondents: AGP FOR PROHIBITION & EXCISE

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.38473 of 2016

ORDER:

No representation for the petitioner.

2. Heard learned Assistant Government Pleader for Prohibition and Excise.

3. In this writ petition petitioner challenges the notice dated 16.09.2016 to forfeit the bond for good behaviour.

4. The said notice was issued on the ground that petitioner in violation of bond of good behaviour was involved in another crime. Therefore, he was directed to pay a penalty of Rs.1,00,000/- or to show cause why he should not be adjudged for imprisonment until such bond period expires.

5. From the reading of the impugned notice, it is seen that no prior opportunity was given to the petitioner to explain his stand before ordering forfeiture of the amount furnished by him earlier. That apart, the reason assigned for forfeiture is alleged involvement of the petitioner in a crime. Mere involvement in a crime would not by itself constitute breach of bond furnished by the petitioner, as it cannot be treated on par with conviction. Thus, on both counts i.e., on facts and in law, the impugned notice dated 16.09.2016 is unsustainable. Accordingly, the impugned notice is set aside and the Writ Petition is allowed. No costs. However, it is made clear that this order would not preclude the authorities in proceeding in the matter in future in accordance with law, if

warrants. Miscellaneous petitions, if any pending, shall stand closed.

SD/-M.RAMANA KRISHNA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Excise Department, State of Telangana, Secretariat Buildings. Hyderabad.
2. The Executive Magistrate and Tahsildar, Devarakonda Mandal, Nalgonda District.
3. The Station House Officer, Prohibition and Excise Station, Devarakonda P.S., Nalgonda District.
4. One CC to Sri. Nooka Jagannadham, Advocate [OPUC]
5. Two CCs to GP for Prohibition & Excise, High Court for the State of Telangana. [OUT]
6. Two C.D. Copies

Prk

HIGH COURT

DATED:15/12/2020

ORDER

WP.No.38473 of 2016



Allowing the WP.
without costs.

SSV.
8 copies
Dt 23/12/2020