

HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.11068 of 2022

ORDER:

1. Heard Sri G.Vasanthan Rayudu, learned counsel for the petitioners as well as the learned Additional Public Prosecutor who is representing the respondent.

2. Seeking pre-arrest bail, the present Criminal Petition is filed on behalf of the petitioners, who are arrayed as Accused Nos.1 & 2 in C.O.R.No.158 of 2022 of Prohibition and Excise Station, Bhainsa.

3. Making his submission, learned counsel for the petitioners contends that the petitioners have not committed any offences whatsoever and even if the contents of the panchanama are taken to be true on their face value, the case would fall within the ambit of Section 34(a) of Telangana State Excise Act, but not under Section 37A(ii) of the said Act and as such, the relief sought for may be granted.

4. On the other hand, the submission of the learned Additional Public Prosecutor is that the petitioners were purchasing cheap liquor from the State of Maharashtra

and were selling the same at the State of Telangana. As per the contents of panchanama, information was received that the petitioners were selling Deshidaru of IML liquor and on that, Excise officials conducted raid and seized the said liquor bottles. But the petitioners absconded. Thus, it is not the case of the prosecuting agency that the petitioners mixed or permitted to be mixed with any liquor or intoxicating drug, any noxious substance or any substance which is likely to cause disability or grievous hurt or death to human being. As per the material available on record, the liquor bottles that were being sold at the State of Maharashtra, were purchased and were being sold in the State of Telangana by the petitioners. Thus, when the case falls within the ambit of Section 34(a) of the Telangana State Excise Act, the maximum punishment that would be awarded would be upto three years and with fine. Therefore, Section 41-A Cr.P.C. comes into play.

5. Having regard to these facts, this Court is of the view that the request of the petitioners can be honoured, however, conditionally.

6. In the result, the Criminal Petition is allowed with the following conditions:

- (i) The petitioners/Accused Nos.1 & 2 are directed to surrender before the concerned Court within ten (10) days. On such surrender, they shall be enlarged on bail on their executing a personal bond for Rs.50,000/-(Rupees Fifty Thousand only) each with two sureties for like-sum each to the satisfaction of the Court concerned. The sureties are directed to submit their two latest passport size photographs at the time of furnishing solvency. One such photograph is ordered to be pasted in the Surety Register against the name of the surety. The other photograph shall be kept in the case record concerned.
- (ii) The petitioners/Accused Nos.1 & 2 shall report before the Station House Officer, Prohibition and Excise Station, Bhainsa, on every Monday between 10.30 a.m. and 12:00 p.m. till filing of final report.
- (iii) The petitioners/Accused Nos.1 & 2 should not involve in any unlawful activity.

- (iv) The petitioners/Accused Nos.1 & 2 should afford all assistance for the proper investigation of the case.
- (v) The petitioners/Accused Nos.1 & 2 should not cause the evidence of the offence disappear.
- (vi) The petitioners/Accused Nos.1 & 2 should not tamper with the evidence in any manner.
- (vii) The petitioners/Accused Nos.1 & 2 should not by way of inducement, threat or promise, dissuade any person who is acquainted with the facts of the case, from disclosing such facts to the Court or to the Police Officer.
- (viii) In case the petitioners/Accused Nos.1 & 2 holds a passport, they shall surrender the same.
- (ix) The petitioners/Accused Nos.1 & 2 should ensure their presence whenever required by the Court or Police.
- (x) The petitioners/Accused Nos.1 & 2 shall not leave India without previous permission of the Court concerned.
- (xi) The petitioners/Accused Nos.1 & 2 shall file an affidavit before the Court concerned disclosing the following particulars:-
 - (1) Contact number

- (2) Mail address
- (3) Residential particulars.

In case, there is any change of the aforementioned details, the petitioners shall intimate the court concerned by giving a fresh affidavit duly mentioning the change. They shall continue to do so till filing of the final report.

Any deviation of the above conditions would entitle the respondent to take appropriate steps for cancellation of the pre-arrest bail granted.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date:20.12.2022
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HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.11068 of 2022

Date:20.12.2022

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CIVIL REVISION PETITION No.3578 of 2018

27.12.2021

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