

THE HONOURABLE DR. JUSTICE D.NAGARJUN

CRIMINAL PETITION No.11841 of 2022

ORDER:

This Criminal Petition is filed by the petitioner/Accused under Sections 438 of the Criminal Procedure Code seeking anticipatory bail in COR No.140 of 2022 dated 16.09.2022 on the file of Prohibition and Excise Station, Kollapur, Nagarkurnool District registered for the offences punishable under Section 27(i) Telangana State Excise Rules, 2007.

02. Heard Sri M.Venkata Narasimha Reddy, learned counsel for the petitioner as well as Sri T.V.Ramana Rao, learned Additional Public Prosecutor for respondent/State.

03. According to the prosecution version, on 16.09.2022 at 10:30 AM STF Party Hyderabad inspected the TFT Toddy shop of Thirumalampally at G.No.4, tested the toddy and found no adulteration with Chloral Hydrate. However, the samples were drawn as per the procedure under the cover of panchanama. Basing on the said panchanama, a case has been registered and one sample was

sent to Government Chemical Examiner, Regional Prohibition and Excise Laboratory, Hyderabad for analysis, who has given a report dated 29.09.2022 that sample is adulterated with Alprazolam. Therefore, the case is registered for the offences under Section 27(i) Telangana State Excise Rules, 2007 and Section 8 (c) read with 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and the case has been transferred to the learned Sessions Court, Nagarkurnool.

04. It is submitted by the learned counsel for the petitioner/Accused that petitioner/Accused is innocent; he has not committed such an offence earlier; he is no way concerned as he was falsely implicated in this case. It is further submitted that petitioner/Accused was not physically present, when samples were drawn by the excise officials. The samples, which were found free from Choral Hydrate were not adulterated.

05. As per Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, if the contraband is

commercial quantity, the petitioner/Accused is not entitled for the bail. It is submitted that when officials have visited the toddy shop they found in all 12 bottles consisting of 650 ml of toddy in each bottle. One of the samples were sent to the Chemical Examiner, wherein the chemical examination report though disclose the presence of Alprazolam its quantity is not mentioned in the report. Therefore, at any stretch of imagination, it cannot be said that Alprazolam found in the sample is commercial quantity.

06. Taking into consideration all the facts and circumstances, the petitioner/Accused is entitled for anticipatory bail. Accordingly, the Criminal Petition is allowed and the petitioner/Accused is granted anticipatory bail subject to the following conditions:

i) The petitioner/Accused is directed to be surrender himself before Prohibition and Excise Station, Kollapur, Nagarkurnool district and on such surrender, the petitioner / accused is ordered to be released on bail on his executing personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like

sum to the satisfaction of Prohibition and Excise Station, Kollapur, Nagarkurnool district.

ii) The petitioner/Accused shall abide by the other conditions stipulated in Section 438 of the Criminal Procedure Code.

As a sequel, pending Miscellaneous Applications, if any, shall stand closed.

DR. D.NAGARJUN, J

Date: 05-Jan-2023
TMK

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