

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.1310 of 2024

ORDER:

This Criminal Petition is filed by the petitioners – A1 and A2 under Section 438 of Code of Criminal Procedure (for short “Cr.P.C.”) for grant of anticipatory bail in the event of their arrest in F.I.R.No.299 of 2023 on the file of PS Gandhi Nagar, Hyderabad District, registered for the offence under Section 37-A of Telangana State Excise Act, 1968 (for short “TSEA Act”), which was modified to Section 8(c) read with Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’)

2. The case of the prosecution in brief was that on 02.11.2023 at 1700 hours, the Sub-Inspector of Police, Gandhi Nagar, Hyderabad lodged a report stating that he received credible information that the petitioners were selling intoxicated toddy to the needy customers at Bhoiguda Toddy Compound, Secunderabad. As such, he appraised the information to his superiors, summoned two mediators, drafted search proceedings and proceeded to the said place along with his staff and mediators and found the petitioners, informed the purpose of his visit to them and served search proceedings under Section 165 of Cr.P.C. under acknowledgment and raided the spot and found intoxicated toddy, recorded the confession cum seizure panchanama of the petitioners and seized 3

cases (containing 12 toddy bottles each), total 23.4 litres, worth of Rs.1,800/- in the presence of panch witnesses. Basing on the said report, the above crime was registered and the samples were sent to the chemical examiner.

3. Heard the learned counsel for the petitioners – A1 & A2 and the learned Additional Public Prosecutor.

4. Learned counsel for the petitioners submitted that the petitioner No.1 was the President of Toddy Tappers Co-operative Society of Bhoiguda and the said Society was having a valid license to sell the toddy at the toddy shop situated at New Bhoiguda. Petitioner No.2 was the person who was selling the toddy in the said toddy shop. The petitioners had not committed any alleged offence. As such, they filed a quash petition in Criminal Petition No.11458 of 2023. This Court on 20.11.2023, while considering the grounds raised by the petitioners disposed of the quash petition directing the Police not to take any coercive steps. The Police Gandhi Nagar were visiting the toddy shop of the petitioners and informing that they were altering the Section of Law by adding Section 8(c) read with Section 22(c) of NDPS Act and that they would arrest the petitioners.

5. He further submitted that without knowing the quantity of intoxicant, it could not be said that the offence under Section 8(c) read with Section 22(c) of NDPS Act was committed. When no quantity of intoxicant was mentioned, it only comes under Section 8(c) read with Section 22(a) of NDPS Act, which was

only comes under Section 8(c) read with Section 22(a) of NDPS Act, which was punishable only with one year imprisonment. As the petitioners were apprehending arrest, prayed to grant anticipatory bail to the petitioners.

6. The learned Additional Public Prosecutor opposed grant of anticipatory bail to the petitioners.

7. Considering that this Court in Criminal Petition No.11458 of 2023 passed orders not to take coercive steps against the petitioners pending investigation and the said orders are in force and the Hon'ble Apex Court in **Manoj Suresh Jadhav and Others v. State of Maharashtra**¹ held that:

“It is not permissible for the respondent – State to simply re-arrest the petitioners by ignoring order dated 02.06.2016 passed by the learned Additional Sessions Judge, Pune, which was in force at that time”,

and as the petitioners are apprehending their arrest, it is considered fit to enlarge the petitioners on anticipatory bail on certain conditions.

8. In the result, the Criminal Petition is allowed and the petitioners – A1 and A2 are granted anticipatory bail, subject to the following conditions:

- (i) The petitioners – A1 and A2 are directed to surrender before the Station House Officer, Gandhi Nagar Police Station, Hyderabad within a period of fifteen (15) days from the date of this order, and on such surrender the Station House Officer,

¹(2019) 17 SCC 362

Gandhi Nagar Police Station, Hyderabad shall release the petitioners on bail on their executing a personal bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) each with two sureties for a like sum each to the satisfaction of said Station House Officer.

(ii) The petitioners – A1 & A2 shall abide by the other conditions stipulated in Section 438(2) of Cr.P.C. and shall appear before the Investigating Officer as and when directed by him and shall co-operate with the Investigating Officer in investigation of the case.

As a sequel, miscellaneous applications in this petition if any shall stand closed.

Dr. G.RADHA RANI, J

Date: 07th February, 2024
Nsk.