

THE HONOURABLE DR.JUSTICE G. RADHA RANI**CRIMINAL PETITION No.1375 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 Crime No.246 of 2023 on the file of PS Marredpally, 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 03.11.2023 at 05:30 hours, the Sub-Inspector of Police, Marredpally, Hyderabad lodged a report stating that he received credible information that the petitioners were selling adulterated toddy to the needy customers at Boosareddy Guda Toddy Compound, Opp.Chiranjeevi Apartments, near Agra Sweet House. As such, he appraised the information to his superiors, drafted search proceedings and proceeded to the said place along with panchayatdars 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 seized five bottles of toddy

with Kingfisher Labels containing 650 ml toddy in each bottle and marked them as Q-1, Q-2, Q-3, Q-4 and Q-5, collected toddy samples from the above seized bottles into five separate plastic bottles and the same were marked as S-1, S-2, S-3, S-4 and S-5 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 Cooperative Society of Boosareddy Guda and the said Society was having a valid license to sell the toddy. 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, the petitioner No.1 filed a quash petition vide Criminal Petition No.11423 of 2023. This Court on 18.11.2023, while considering the grounds raised by the petitioner No.1, disposed of the quash petition directing the Police not to take any coercive steps and directed the petitioner No.1 to appear before the Police as and when required for the purpose of the investigation. The Police, Marredpally 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 would only come 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.11423 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.

¹ (2019) 17 SCC 362

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, Marredpally Police Station, Hyderabad within a period of fifteen (15) days from the date of this order, and on such surrender the Station House Officer, Marredpally 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 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 investigation of the case.

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

Dr. G.RADHA RANI, J

Date: 08th February, 2024
dsv.