

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.1883 of 2024

ORDER:

This Criminal Petition is filed by the petitioner – A3 under Section 438 of Code of Criminal Procedure (for short “Cr.P.C.”) for grant of anticipatory bail in Crime No.348 of 2023 on the file of the Station House Officer, Mangalhat Police Station, Hyderabad, registered for the offence under Section 37-A of the Telangana State Excise Act (for short “TSE Act”), which was later altered to Section 8(c) read with 22(c) of 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 20:00 hours, the Sub-Inspector of Police, Mangalhat, Hyderabad lodged a report stating that he received credible information at 18:00 hours on the same day that one person by name A.Venkatesh Goud, who was promoter and licensee of Toddy Shop at Seetharambagh, Mangalhat, Hyderabad was selling toddy by mixing intoxicant viz., alprazolam. As such, he apprised the information to his superiors, obtained permission. He secured presence of two panchas and visited the said place along with his staff and panchas and found a person selling toddy to the needy customers. On enquiry, the said person revealed his name as B.Srinivas Goud and admitted his guilt. He further confessed that one

A.Venkatesh Goud was the owner of the shop. He and another person G.Ramakrishna Goud (petitioner - A3) were working in the said shop. On the instructions of their owner only, they were mixing alprazolam in the toddy and selling the same to the customers. The Police recorded the confession and seizure panchanama and seized the adulterated toddy bottles and other contraband i.e. crystalline substance viz., sugar, citric acid and sodium bicarbonate, etc. They collected samples of adulterated toddy in two bottles and other crystalline substances 100 grams each.

3. Basing on said report, the above crime was registered and the seized material was sent to the chemical examiner. Later, after the chemical examiner issued a report stating that Alprazolam substance was found in the seized items, the section of law was altered from Section 37-A of TSE Act to Section 8(c) read with 22 (c) of the NDPS Act, 1985.

4. Heard the learned counsel for the petitioner - A3 and the learned Additional Public Prosecutor for the respondent - State.

5. Learned counsel for the petitioner submitted that the petitioner – A3 was not the manufacturer of the toddy. A1 was the owner of the toddy shop. There was no role of the petitioner in preparing the adulterated toddy. The Police falsely implicated the petitioner and were trying to arrest him

6. He further submitted that as the petitioner was never involved in the offences alleged against him, he along with other 2 accused filed CrI.P.No.11470 of 2023 before this Court seeking to quash the FIR and this Court passed orders on 20.11.2023 directing the Police not to take any coercive steps against the petitioner pending investigation. The petitioner was apprehending that Police would arrest him. The respondents could not plead ignorance of the orders passed in CrI.P.No.11470 of 2023 and relied upon the judgment of the Hon'ble Apex Court in **Manoj Suresh Jadhav and others v. State of Maharashtra**¹ wherein it was held that subsequent addition of any offence against the accused person, who was already on bail, re-arrest of accused, ignoring the earlier bail order was not permissible.

7. Considering the judgment of the Hon'ble Apex Court in **Manoj Suresh Jadhav**'s case (supra), wherein it was 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 orders passed by this Court are in force and as the petitioner is apprehending his arrest, it is considered fit to enlarge the petitioner on anticipatory bail on certain conditions.

¹ (2019) 17 SCC 362

8. In the result, the Criminal Petition is allowed and the petitioner-A3 is granted anticipatory bail, subject to the following conditions:

- (i) The petitioner-A3 is directed to surrender before the Station House Officer, Mangalhat Police Station, Hyderabad, within a period of fifteen (15) days from today, and on such surrender the Station House officer, Mangalhat Police Station, Hyderabad shall release the petitioner on bail on his executing a personal bond for a sum of Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to the satisfaction of said Station House Officer.
- (ii) The petitioner-A3 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 pending in this petition, if any shall stand closed.

Dr. G. RADHA RANI, J

Date: 20th February, 2024
Nsk.