

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.2068 OF 2024

ORDER:

This criminal petition is filed by the petitioner – Accused under Section 438 Cr.P.C. for grant of anticipatory bail in Crime No.195 of 2023 on the file of the Station House Officer, Madannapet Police Station, Hyderabad, registered for the offence under Section 37-A of the Telangana State Excise Act (for short ‘TSE Act’), which was altered to Section 8(c) read with 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 about 18:00 hours, while the Sub-Inspector of Police, Madannapet Police Station, Hyderabad was performing patrolling duty in Sector-II of Madannapet, received credible information that a person, by name, D. Vinod Kumar (petitioner herein) was selling adulterated toddy in his shop at D.No.17-2-790/1/A, Rein Bazaar, Hyderabad by mixing narcotics, and placed the said information before his Superior Officer, obtained permission, and on securing two mediators visited the said place along with his staff. On reaching the said shop, found a person selling toddy, recorded the confession cum

seizure panchanama of the said person in the presence of panchas, seized 10 liters of toddy, white colour paste, 1 kg of tasting soda, collected the samples, sealed them and brought them to the police station and lodged the report.

3. Basing on the said report, the above case was registered initially under Section 37-A of the TSE Act. The samples were sent to the Chemical Examiner for analysis and report. The chemical examiner issued a report stating that Alprazolam substance was found in the seized items. Then, 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.

4. Heard the learned counsel for the petitioner-Accused and the learned Additional Public Prosecutor.

5.1 Learned counsel for the petitioner submitted that the petitioner was the licence holder of the toddy shop and that there were no averments in the FIR that the petitioner was involved in mixing or permitting to mix any intoxicating drug in the toddy. The petitioner was never involved in the offence alleged, the police implicated him with false allegations. The police had drawn the samples in violation of Rules 3 and 27 of the Telangana State Excise Rules. The petitioner

was apprehending arrest as the section of law was altered from 37-A of TSE Act to Section 8(c) read with Section 22 (c) of the NDPS Act.

5.2 He further submitted that without knowing the quantity of intoxicant, it could not be said that the offence under Section 8(c) read with 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.

6. Learned Additional Public Prosecutor opposed grant of bail to the petitioner.

7. Perused the record. Considering merit in the submission of the learned counsel for the petitioner that without knowing the quantity of intoxicant, it would not come under Section 8(c) read with 22(c) of NDPS Act, but would attract only the offence under Section 22(a) of NDPS Act, it is considered fit to enlarge the petitioner on anticipatory bail on certain conditions.

8. Accordingly, the Criminal Petition is allowed and the

petitioner - accused shall be released on anticipatory bail subject to the following conditions:

- 1) The petitioner-Accused is directed to surrender before the Station House Officer, Madannapet Police Station, Hyderabad, within a period of 15 days from the date of this order. On such surrender, the said Station House Officer shall release the petitioner on bail on his executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to the satisfaction of the said Station House Officer.
- 2) The petitioner-Accused shall abide by the conditions stipulated under Section 438(2) of Cr.P.C and shall co-operate with the Investigating Officer in investigation of the case.

Miscellaneous applications, pending if any, shall stand closed.

Date:26.02.2024
SS

Dr. G.RADHA RANI, J