

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL PETITION No.2304 OF 2024

ORDER:

This Criminal Petition is filed by the petitioners/A2 and A3 under Sections 437 and 439 of Cr.P.C. for grant of regular bail in Crime No.349 of 2023 of Mangalhat Police Station, Hyderabad, registered for the offence punishable under Section 37-A of Telangana Excise Act (for short 'TSE Act') which was 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 20:20 hours, the Sub-Inspector of Police, Mangalhat Police Station, Hyderabad lodged a report stating that on the same day at 18:05 hours while he was in police station, received credible information that a person, by name, A.Venkatesh Goud (A1) was selling adulterated toddy at Shankar Cafe Hotel, Mangalhat, 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 staff. When they reached the said shop, they found the petitioners/A2 and A3 selling toddy and immediately apprehended them. On enquiry, the petitioners/A2 and A3 stated

that they were workers in the said shop and admitted that on the instructions of their owner, they were mixing some ingredients viz., citric acid, sugar, sodium bicarbonate and alprazolam in the toddy. The police recorded the confession cum seizure panchanama in the presence of panchas, seized the property, collected samples, sealed them and brought them to the police station.

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

4. Heard learned counsel for the petitioners/A2 and A3 and learned Additional Public Prosecutor representing the respondent-State.

5. Learned counsel for the petitioners/A2 and A3 submitted that the petitioners/A2 and A3 were innocent persons, they were falsely implicated in the subject crime, they were only workers in the toddy shop of A1.

6. Learned counsel for the petitioners further submitted that the police had conducted raid in violation of Rules 3 and 27 of the Telangana State Excise Rules. Without knowing the quantity of intoxicant, it could not be said that the petitioners committed the offence under Section 8(c) read with 22(c) of NDPS Act. When the quantity of intoxicant was not mentioned, it would only come under Section 8(c) read with 22(a) of NDPS Act and the punishment prescribed for the said offence was only one year imprisonment and prayed to grant bail to the petitioners/A2 and A3.

7. Learned Additional Public Prosecutor opposed grant of bail to the petitioners/A2 and A3.

8. Perused the record.

9. Considering merit in the submission of the learned counsel for the petitioners 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, and as A1 in the subject crime was granted anticipatory bail *vide* order, dated 26.02.2024 in CrI.P.No.2056 of 2024, it is considered fit to enlarge the petitioners/A2 and A3 on bail with certain conditions.

10. Accordingly, the Criminal Petition is allowed and the petitioners/A2 and A3 shall be released on bail subject to the following conditions:

- 1) The petitioners/A2 and A3 shall execute 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 the XVI Additional Chief Metropolitan Magistrate, Hyderabad.
- 2) The petitioners/A2 and A3 shall abide by the conditions stipulated under Section 437(3) of Cr.P.C.

Miscellaneous applications, pending if any, shall stand closed.

Date: 29.02.2024
ssp

Dr. G.RADHA RANI, J