

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.2306 of 2024

ORDER:

This Criminal Petition is filed by the petitioner under Section 438 of Code of Criminal Procedure for grant of anticipatory bail in Crime No.216 of 2023 on the file of PS Begum Bazar, Hyderabad, registered for the offences under Section 34(a) and 37-A of the Telangana State Excise Act, 1968

2. The case of the prosecution in brief was that on 03.11.2023 at 17:00 hours, the Sub-Inspector of Police of PS Begum Bazar lodged a report stating that on credible information about adulterated toddy being sold at Malakunta Toddy Compound, Malakunta Road, Goshamahal, Hyderabad, he informed the same to his superiors, secured the panch witnesses and proceeded to the toddy shop in the name of President of TTCS Komatikunta toddy compound and found a person by name Chatagoni Balaraju sitting in the counter, managing the toddy shop as an employee. On enquiry, the said person stated the license of the toddy shop was in the name of the President of TTCS Komatikunta. On verification of the shop, the Police noticed 20 plastic crates of toddy, each crate containing 12 glass bottles, total 240 bottles, each bottle of 650 ml, and seized the same in the presence of panchas and taken (6) bottles as samples.

3. Basing on the said report, the above crime was registered and the samples were sent to the chemical examiner for analysis and report.

4. After receipt of the chemical examiner's report, the Section was altered from 37-A of Telangana State Excise Act to 8(c) read with 22(c) of Narcotic Drugs and Psychotropic Substances Act, 1985.

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

6. Learned counsel for the petitioner submitted that the Toddy Tappers Co-operative Society was formed under the provisions of Telangana State Co-operatives Societies Act for the purpose of Toddy Tappers and its members. The said Society had established licensed toddy shops. The said shops were run by the TTCS for the welfare of its members. The Society and its licensed shops were running without any complaints. Suddenly on 03.11.2023 at 17:50 hours in the evening simultaneous raids were conducted by the Station House Officers in all the licensed shops and they created a panic situation. The respondent – Police had not followed the rules under Telangana State Excise Rules, 2007. The accused A1 and A2 were granted protection by this Court vide Criminal Petition No.11436 of 2023 directing the Police not to take coercive steps against them. The petitioner was a senior citizen. Section 8(c) read with Section 22(c) of NDPS Act had no application as the quantity of adulterant was not

specifically mentioned in the report. The Police were frequently visiting the house of the petitioner and threatening the family members that the petitioner would be arrested, as such prayed for grant of anticipatory bail to the petitioner.

7. Learned Additional Public Prosecutor opposed grant of anticipatory bail to the petitioner stating that NDPS Act was invoked in the present case.

8. Perused the record.

9. Considering that in similar circumstances, this Court granted anticipatory bail to others, considering merit in the contention of the learned counsel for the petitioner that the raids were conducted in violation of Rule 27 of Telangana State Excise Rules and that without knowing the quantity of adulterant, the case is likely to fall under Section 22(a) of NDPS Act, but not under Section 22(c) of NDPS Act, which was punishable with only one year imprisonment and the petitioner also stands on the same footing as those of others, it is considered fit to enlarge the petitioner on bail on certain conditions.

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

(i) The petitioner - accused is directed to surrender before the Station House Officer, Begum Bazar, Hyderabad within a period of (15) days from the date of this Order, and on such surrender the Station House Officer, Begum Bazar, Hyderabad

shall release the petitioner on bail on his executing a person bond for Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties for the like sum each to the satisfaction of the said Station House Officer.

(ii) The petitioner - accused shall abide by the other conditions stipulated under 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: 29th February, 2024
Nsk.