

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL PETITION No.2523 of 2024

ORDER:

This Criminal Petition is filed by the petitioner/A2 under Sections 437 and 439 of Cr.P.C. for grant of regular bail in Crime No.277 of 2023 of Tukaramgate Police Station, Hyderabad, registered for the offence punishable under Section 37-A of Telangana Excise Act, 1968 (for short 'TSE Act') which was altered to Section 8(c) read with 22(c) and 29 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 21:30 hours, the Assistant Sub-Inspector of Police, Tukaramgate, on receipt of credible information that adulterated toddy was being sold at TCS Addagutta, proceeded to the said place and conducted raid. They found the petitioner/A2 in the said shop conducting business. On search, they found the following material 1) Ammonium Bircarbonate – 5.5 kgs 2) Sodium Bicarbonate – 4 kgs 3) Saccharine – 4 kgs 4) Yeast – ½ kg 5) large citric acid – 5 kgs, 6) white colour maddi powder – 4 packets, 7) Pyridine half bottle, 8) Sodium Hydrate pills – 500ml and 9) white colour crystals – ½

packet. He recorded the confession cum seizure panchanama of the petitioner/A2, seized the above contraband and also collected samples.

3. Basing on the aforesaid report, initially, the subject crime was registered under Section 37-A of TSE Act, later during the course of investigation the samples were sent to the chemical examiner. The chemical examiner issued a report stating that Alprazolam substance was found in the samples. Therefore, the Section of law was altered from Section 37-A of TSE Act to Sections 8(c) r/w 22(c) and 29 of NDPS Act, 1985.

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

5. Learned counsel for the petitioner/A2 submitted that the police had conducted raid in violation of Rules 3 and 27 of the Telangana State Excise Rules. The quantity of adulterated substance was also not mentioned in the report. The entire investigation was completed except filing of the charge sheet. The petitioner/A2 was

taken into judicial custody on 24.02.2024 and prayed to enlarge the petitioner/A2 on bail.

6. Learned Additional Public Prosecutor opposed grant of bail to the petitioner/A2.

7. Perused the record.

8. Considering merit in the contention of the learned counsel for the petitioner/A2 that the raids were conducted in violation of the Excise Rules and that under Rule 3 of Excise Rules, police officer should be above the rank of an Inspector and under Rule 27 of Excise Rules, the samples have to be drawn by the excise officials and *prima facie* as it was observed that raids were conducted without jurisdiction and that without knowing the quantity of contraband, it would not come under Section 8(c) read with 22(c) of NDPS Act, but would only attract the offence under Section 22(a) of NDPS Act which was punishable with only one year imprisonment, it is considered fit to enlarge the petitioner/A2 on bail with certain conditions.

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

- 1) The petitioner/A2 shall execute 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 XXII Additional Chief Metropolitan Magistrate, Secunderabad.
- 2) The petitioner/A2 shall abide by the conditions stipulated under Section 437(3) of Cr.P.C.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 06.03.2024
ssp

Dr. G. RADHA RANI, J