

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.2783 OF 2024

ORDER:

This Criminal Petition is filed under Section 438 of Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) seeking anticipatory bail to the petitioners-Accused Nos.1 & 2 in Crime No.276 of 2023 on the file of the Station House Officer, Kachiguda 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 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, the Sub Inspector of Police, Kachiguda Police Station lodged a report stating that on the same day, at 19.45 hours, he received credible information that adulterated toddy was being sold at H.No.2-2-1103/2, Toddy Compound, Golnaka, Kachiguda, Hyderabad, informed the same to his superior officer, obtained permission and proceeded to the said toddy compound along with his staff and mediators. On reaching the said shop, they found a person at the counter selling toddy and on enquiry, he disclosed his name as Arvind Kumar Yadav (petitioner No.1 herein) and stated that he was a worker of the said toddy shop and also disclosed the name of the owner as

Satyanarayana Goud (petitioner No.2 herein). The petitioner No.1 admitted the guilt of selling adulterated toddy to the needy customers. The police seized five toddy bottles randomly from 34 wooden crates and collected them as samples in the presence of panch witnesses.

3. Basing on the 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 learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent-State.

5. Learned counsel for the petitioners submitted that the petitioner No.2 was the member of the Toddy Tappers Co-operative Society of N.K. Phoolbagh and obtained valid licence to sell the toddy. The petitioners never involved in the offence alleged against them. They were falsely implicated in the above case. The police had conducted the raids in violation of Rules 3 and 27 of the Telangana State Excise Rules. He further contended that the petitioners filed Crl.P.No.11456 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 petitioners, pending investigation. The petitioners were apprehending arrest as the case was modified to Section 8(c) read with 22 (c) of the NDPS Act. The respondent police could not plead ignorance of the orders passed in Crl.P.No.11456 of 2023.

6. Learned Additional Public Prosecutor opposed grant of bail to the petitioners as the case was altered to Section 8(c) read with 22(c) of the NDPS Act for adulteration of toddy by psychotropic substance.

7. Perused the record. Considering merit in the submission of the learned counsel for the petitioners that the raids were conducted in violation of Rule 3 of the Telangana State Excise Rules, wherein the police officer, who was conducting raid should be above the rank of an Inspector and the samples drawn should be by an officer not below the rank of Sub-Inspector of Prohibition and Excise under Rule 27 of the Rules, and this Court had granted protection to the petitioners *vide* Crl.P.No.11456 of 2023, directing the police not to take coercive steps pending investigation and as this Court had also granted anticipatory bail to the petitioners who were standing on similar footing and in similar circumstances, it is considered fit to enlarge the petitioners on anticipatory bail on certain conditions.

8. Accordingly, the Criminal Petition is allowed and the petitioners - accused Nos.1 & 2 shall be released on anticipatory bail subject to the following conditions:

- 1) The petitioners-Accused Nos.1 & 2 are directed to surrender before the Station House Officer, Kachiguda 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 petitioners on bail, on their executing a 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 said Station House Officer.
- 2) The petitioners-Accused Nos.1 & 2 shall abide by the conditions stipulated under Section 438(2) of Cr.P.C..

Miscellaneous applications, pending if any, shall stand closed.

March 15, 2024
ss

Dr. G.RADHA RANI, J