

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.2917 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 to 3 in Crime No.277 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 at 20.30 hours, the Sub Inspector of Police, Sultan Bazar Police Station, on receipt of credible information about sale of adulterated toddy at the toddy compound at premises No.3-1-35 & 36, Jamal Basthi, Nimboliadda, Hyderabad, proceeded to the said toddy compound along with his staff and panch witnesses. They found the petitioner-Accused No.1 conducting sales at the counter. On enquiry, he stated that he was working under the management of Krishna Goud. His owner brought toddy from Peddaravulapally Village, Yadadri, Bhonagiri District (Tati Kallu) and Etha Kallu from Pebberu, Gumpampally Village, Gadwal District and the same were filled in four plastic drums. One of the owners, Mahender had mixed some

unknown intoxicant substance into toddy and they were selling the same at the rate of Rs.40/- per bottle. The SI collected the samples of toddy and also seized a white colour powder and an yellow colour powder from the toddy compound under the cover of panchanama and lodged the report.

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 petitioners were falsely implicated in the above case, as they were members of the Toddy Tappers Co-operative Society, Jamal Basthi. The said shop was run by the Toddy Tappers Co-operative Society for the welfare of its members. The licensed shop was being run without any complaint and they were providing toddy to the customers at fixed rates. The society was submitting all the relevant information to the Excise Department and maintaining the accounts, cash book, auditing, etc. as per the byelaws of the petitioners' society. 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.11455 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.11455 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 a 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 should be drawn 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.11455 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 footings 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 to 3 shall be released on anticipatory bail subject to the following conditions:

- 1) The petitioners-Accused Nos.1 to 3 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 to 3 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