

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.3160 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 petitioner-Accused in Crime No.140 of 2023 on the file of the Station House Officer, Kalapattar 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 20.00 hours, the Sub Inspector of Police, Kalapathar Police Station lodged a report stating that at 17:45 hours, she received credible information that a person Muppidi Anand (the petitioner herein), who was running toddy shop at Tadbund X Road was selling spurious toddy. She informed the same to her superior officers, obtained permission and proceeded to the said shop along with her staff, mediators, clues team and crime team. On reaching the said shop, they found some empty bottles and blue colored drum filled with toddy. They seized the blue color drum containing approximately

200 liters of toddy and collected samples in five plastic bottles each having a capacity of 750 ml 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 petitioner and learned Additional Public Prosecutor for the respondent-State.

5. Learned counsel for the petitioner submitted that the petitioner obtained valid licence to sell the toddy. The petitioner was never involved in the offence alleged against him. He was 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 petitioner filed Crl.P.No.11443 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 petitioner, pending investigation. The petitioner was 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 CrI.P.No.11443 of 2023.

6. Learned Additional Public Prosecutor opposed grant of bail to the petitioner 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 petitioner 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 petitioner *vide* CrI.P.No.11443 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 petitioner on anticipatory bail on certain conditions.

8. Accordingly, the Criminal Petition is allowed and the petitioner - accused shall be released on anticipatory bail subject to the following conditions:

- 1) The petitioner-Accused is directed to surrender before the Station House Officer, Kalapattar 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 petitioner on bail, on his executing 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 said Station House Officer.
- 2) The petitioner-Accused shall abide by the conditions stipulated under Section 438(2) of Cr.P.C..

Miscellaneous applications, pending if any, shall stand closed.

March 21, 2024
SS

Dr. G.RADHA RANI, J