

THE HONOURABLE Dr.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.3740 of 2024

ORDER:

This Criminal Petition is filed by the petitioner – Accused under Section 438 of Code of Criminal Procedure to enlarge him on anticipatory bail in the event of his arrest in connection with C.O.R.No.108 of 2023 of Prohibition and Excise Station, Adilabad, registered for the offences under Sections 34(a) and 37-A of Telangana State Excise Act, 1968 (for short ‘TSE Act’).

2. The case of the prosecution in brief was that on 16.06.2023 at 2.10 PM, on reliable information about sale of illicit liquor (Desi Daru) by the petitioner – Accused, the Excise officials proceeded to Sangvi Village, Jainad Mandal of Adilabad District and on seeing the Excise officials, a person ran away by throwing a carton box at the graveyard. On search of the carton box, they found 48 liquor bottles, each containing 180 ml. of Desi Daru. They seized the same under the cover of panchanama.

3. Heard the learned counsel for the petitioner and the learned Assistant Public Prosecutor for the respondent-State.

4. The learned counsel for the petitioner submitted that Section 37-A of Excise Act is not applicable to the facts of the case, the only offence applicable against the petitioner was under Section 34(a) of Excise Act, which was punishable with imprisonment for three years, as such, prayed for grant of anticipatory bail to the petitioner.

5. Learned Assistant Public Prosecutor reported to decide the petition on merits.

6. Perused the record. There was no *prima facie* evidence to show that the said carton box belonged to the petitioner. The offence under Section 37-A is pertaining to penalty for adulteration resulting in death and the investigation would not reveal that any adulterant was mixed. The other offence alleged against the petitioner was under Section 34(a) of the Excise Act, for being in possession of liquor without any license or permit which was punishable with imprisonment extending up to three years. The said case was also registered long back i.e. on 16.06.2023. Hence, it is considered fit to enlarge the petitioner on anticipatory bail on certain conditions.

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

(i) The petitioner – Accused is directed to surrender before the Station House Officer, Prohibition and Excise Station, Adilabad, within a period of (15) days from the date of this order, and on such surrender, the said Station House Officer shall release the petitioner – Accused on bail on his executing a personal bond for 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.

(ii) The petitioner – Accused shall comply with the conditions stipulated under Section 438(2) of Cr.P.C.

As a sequel, miscellaneous applications pending in this petition, if any shall stand closed.

Dr. G. RADHA RANI, J

April 8, 2024

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