

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.3903 OF 2024

ORDER:

ThisPetition is filed by the petitioner-accused No.2 under Section 438 of Cr.P.C. for grant of anticipatory bail in connection with C.O.R.No.372 of 2023 of Prohibition and Excise Station, Adilabad District, registered for the offences under Sections 34(a) and 37-A of the T.S. Excise Act, 1968.

2. The case of the prosecution in brief was that on 23.12.2023, on reliable information regarding illegal sale of Maharashtra country liquor by A1, the excise officials proceeded to the house of Suresh Vagade in Kouta Village of Jainad Mandal and found a heavy bag in front of the house and when opened the said bag, found 55 bottles of 180 ml size filled with liquid, on which, labels stated as Desidaru were affixed. On enquiry with the villagers, they stated that the said bag belonged to A1, and A2 supplied the said bottles to A1. The excise officials drawn the samples, seized the bottles under the cover of panchanama and registered a case vide C.O.R.No.372 of 2023.

3. Heard the learned counsel for the petitioner-A2 and the learned Assistant Public Prosecutor representing respondent-State.

4. The learned counsel for the petitioner submitted that the petitioner had nothing to do with the alleged offences. He was neither found at the scene of offence nor concerned with the bag alleged to have been seized by the excise officials. The petitioner came to know about his implication in the above case only when the excise officials visited his residence and prayed for grant of anticipatory bail to the petitioner.

5. The learned Assistant Public Prosecutor opposed grant of anticipatory bail to the petitioner.

6. Perused the record. Considering that there is no admissible evidence collected by the excise officials to show the involvement of the petitioner-A2 in the said offence that he supplied the said contraband to A1, except stating that the villagers informed them, and such evidence is inadmissible in law and the names of the villagers also was not even mentioned in the panchanama, nor their statements were recorded by the Investigating Officer to connect the petitioner-accused with the above crime and Section 37-A of T.S. Excise Act pertains to the penalty for adulteration resulting in death, etc., which was prima-facie not applicable to the facts of the present case and Section 34(a) is punishable with imprisonment extending upto three years, it is considered fit to enlarge the petitioner on

anticipatory bail on certain conditions.

7. Accordingly, the Criminal Petition is allowed and the petitioner -accused No.2 shall be released on anticipatory bail subject to the following conditions:

- 1) The petitioner-A2 is directed to surrender before the Station House Officer, Prohibition and Excise Station, Adilabad District, 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-A2 shall abide by the conditions stipulated under Section 438(2) of Cr.P.C..

Miscellaneous applications, pending if any, shall stand closed.

Dr. G.RADHA RANI, J

April 16, 2024
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