

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL PETITION No.12972 OF 2024

ORDER:

This criminal petition is filed by the petitioner/accused No.2 under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of anticipatory bail in Crime No.137 of 2024 of P.S. Bahadurpura, Hyderabad, registered for the offence under Section 34 (a) of Telangana State Excise Act, altered to Section 8 (c) r/w. 22 (c) of NDPS Act, 1985.

2. Heard Mr. M.Murtuza Ali Faruqui, learned counsel appearing for the petitioner and learned Additional Public Prosecutor for respondent-State.

3. Learned counsel for the petitioner submitted that as per the prosecution case, on 09.05.2024 at 21:45 hours, the Sub-Inspector of Police, P.S. Bahadurpura, on credible information that a woman was selling Toddy at H.No.19-5-479/19/20/1/B, S.P. Nagar, Kishanbagh, Bahadurpura, proceeded to the said place along with his staff and apprehended her. On search of the house, they found a white plastic bag containing 22 packets of toddy, each of about 750 ml. He secured two panch witnesses and seized the toddy packets under the cover of panchanama. He had also drawn the

samples and sent the samples to Chemical Examiner for analysis and a report was received from FSL that the toddy was adulterated with a psychotropic substance “Alprazolam”. Basing on the FSL report, the section of law was altered.

4. Learned counsel further submitted that in the entire investigation, there was no whisper about the petitioner or about his licensed premises. Only on suspicion the petitioner was arrayed as accused recording him as owner of Thasipatri Toddy Compound, Attapur, Ranga Reddy District, in the remand report. He further submitted that the petitioner was a license holder and was selling toddy at the licensed spot at Hyderguda, Rajendra Nagar Mandal. The sale of illegal toddy was detected on 09.05.2024, whereas the confession of accused No.1 was recorded on 26.07.2024 after a delay of more than two months. It was alleged that accused No.1 had confessed that the adulterated toddy was supplied by accused No.2 to her at Thasipatri Toddy compound, which do not exist.

5. Learned counsel further submitted that there were violations in drawing the samples under Rule 27 of the Telangana Excise Act and also under Section 52-A of NDPS Act. The seizure itself was bad in law, as per the judgment of the Hon’ble Apex Court in

Union of India v. Mohan Lal and another¹ and ***Mohammed Khalid and another v. The State of Telangana***² and prayed for grant of anticipatory bail to the petitioner.

6. Learned Additional Public Prosecutor opposed grant of anticipatory bail to the petitioner submitting that psychotropic substance Alprazolam was found to be mixed up in the toddy as per the FSL report. The role of the petitioner need to be ascertained by the Investigating Officer and prayed to dismiss the petition.

7. Perused the record.

8. Considering that the involvement of the petitioner was stated to be only basing upon the confession of accused No.1 which was in admissible in law, and accused No.1 was alleged to have confessed that the owner of Thasipatri Toddy Compound, beside South India Shopping Mall, Attapur, Ranga Reddy District, supplied the toddy to her and considering the report dated 04.10.2024 of the District Prohibition and Excise Officer, Shamshabad, Ranga Reddy District, addressed to the Inspector of Police, P.S. Bahadurpura, Hyderabad, that no such toddy shop was

¹ (2016) 3 SCC 379

² 2023 LiveLaw (SC) 570

existing at Thasipatri Toddy Compound, Attapur, Ranga Reddy District and no details were available about the said toddy compound and also considering that the petitioner is a licensed vendor and was conducting business in Hyderabad, Rajendranagar Mandal, it is considered fit to grant anticipatory bail to the petitioner.

9. In the result, the Criminal Petition is allowed directing the petitioner/accused No.2 to be released on bail in the event of his arrest in the above crime subject to the following conditions:

- i) The petitioner/accused No.2 shall execute a personal bond for a sum of Rs.25,000/- (Rupees Twenty five thousand only) with two sureties each for a like sum to the satisfaction of the Station House Officer, P.S. Bahadurpura, Hyderabad.
- ii) The petitioner/accused No.2 shall abide by the other conditions stipulated in Section 482 (2) of BNSS.

Miscellaneous applications, if any, pending, shall stand closed.

Dr. G. RADHA RANI, J

Dt: 05.11.2024.
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