\\

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 4743 OF 2026

Between:

Bantu Shiva, S/o.Mattaiah, Aged about 39 years, Occ.Kirana store, R/o.H.No.22-158, Main Bazar, Miryalaguda, Sanjaynagar, Nalgonda District.

...PETITIONER/ACCUSED NO.2

AND

The State of Telangana. Through S.H.O., Prohibition & Excise Station, Miryalguda,Nalgonda District. Rep. by its Public Prosecutor High Court Buildings, Hyderabad

...RESPONDENT/COMPLAINANT

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records relating to the COR No. 123 of 2025 of Prohibition & Excise Station, Miryalaguda, Nalgonda District, and quash the proceedings thereon

I.A. NO: 2 OF 2026

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant STAY of all further proceedings in COR No. 123 of 2025 of Prohibition a Excise Station, Miryalaguda, Nalgonda District, pending disposal of the Criminal Petition

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri HARI KISHAN KUDIKALA, Advocate for the Petitioner and SRI. JITHENDER RAO VEERAMALLA, Additional Public Prosecutor on behalf of the Sole Respondent

The Court made the following: ORDER

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.4743 of 2026

Date: 01.04.2026

Between:

Bantu Shiva

...Petitioner/Accused No.2

AND

The State of Telangana,
Through s.H.O., Prohibition & Excise Station,
Miryalguda, Nalgonda District,
Rep. by Public Prosecutor,
High Court Buildings, Hyderabad.

...Respondents

: O R D E R :

This Criminal Petition has been filed by the petitioner/accused No.2 seeking to quash the proceedings in C.O.R. No.123 of 2025 on the file of the Prohibition and Excise Station, Miryalguda, Nalgonda District, registered for the offences under Section 7(A) read with 8(3) of T.S. Prohibition Act, 1995 and Section 34(3) of the T.S. Excise Act, 1995.

2. Heard Mr. Hari Kishan Kudikala, learned counsel for the petitioner, and Mr. Jithender Rao Veeramalla, learned Additional Public Prosecutor, appearing on behalf of the respondent-State.

3. Learned counsel for the petitioner submitted that the issue raised in this criminal petition is squarely covered by the orders passed by this Court in Crl.P.No.14768 of 2025, dated 13.11.2025, and also placed a copy of the said order. The petitioner is also entitled for the very same relief. Hence, the continuation of the proceedings against the petitioner is a clear abuse of the process of law.

4. The said submission has not disputed by learned Additional Public Prosecutor.

5. Taking into consideration the orders passed by this Court in Crl.P.No.14768 of 2025, dated 13.11.2025, and in view of the submission made by the both counsel, this Court finds it to be a fit case to exercise jurisdiction under Section 528 of the BNSS to quash the proceedings against the petitioner herein.

6. Accordingly, the Criminal Petition is allowed and the proceedings in C.O.R.No.123 of 2025 on the file of the Prohibition and Excise Station, Miryalguda, Nalgonda District, against the petitioner/accused No.2, are hereby quashed.

Miscellaneous applications, pending if any, shall stand closed.

SD/- M. OSMAN ALI BAIG
ASSISTANT REGISTRAR

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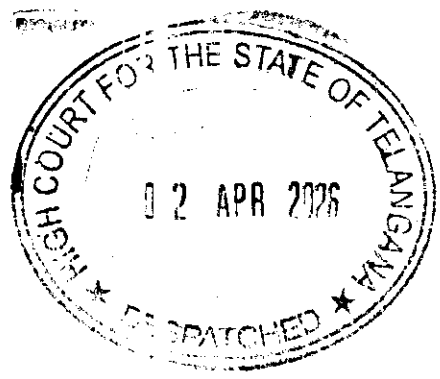
SECTION OFFICER

To,

1. The Station House Officer, Prohibition and Excise Station, Miryalaguda, Miryalguda, Nalgonda District
2. One CC to SRI HARI KISHAN KUDIKALA Advocate [OPUC]
3. Two CCs to Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
4. **Two CD Copies**

HIGH COURT
DATED: 01/04/2026

ORDER
CRLP.No.4743 of 2026



ALLOWING THE CRIMINAL PETITION

02/04/26

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

CRIMINAL PETITION No.14768 of 2025

ORDER:

1. This Criminal Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking the Court to quash the proceedings against the petitioners/accused Nos.1 to 3 in C.O.R.No.545 of 2025, on the file of Thorrur Prohibition and Excise Station, Mahabubabad District, registered for the offence punishable under Section 7(a) read with 8(e) of the Telangana Prohibition Act, 1995 and Section 34(e) of Telangana Excise Act. (for short 'the Act').

2. Heard Sri A.Shiva Sainath, learned counsel for the petitioners/accused Nos.1 to 3 as well as Mr.Erigi Ganesh, the learned Assistant Public Prosecutor appearing for the respondent - State.

3. Learned counsel for the petitioners submitted that the matter is squarely covered by the order dated 10.10.2025 passed in Crl.P.No.13106 of 2025 and enclosed copy of the said order along with the criminal petition.

4. Learned Assistant Public Prosecutor also submitted that the issue raised in the present criminal petition is squarely covered by the earlier order passed in the above criminal petition

5. Perused the record. The allegation leveled against the petitioners/accused Nos.1 to 3 is that they were found in possession of 60 white bags, each bag having 50 Kgs of black Jaggery and 2 white bags, each bag having 50 Kgs of Alum. It is alleged that the said black Jaggery and Alum are used as materials in preparation of ID liquor and that the petitioners had been selling it to earn good returns as it is used in the manufacture of such liquor. An FIR has been registered under Section 34 (e) of the Act, which prescribes penalties for the illegal import, export, etc., of prohibited materials mentioned therein without any license or permit. Specifically, Section 34(e) of the Excise Act penalizes the use and possession of any materials, stills, utensils, implements, or apparatus whatsoever for the purpose of manufacturing any intoxicant other than toddy.

6. The material alleged to have been seized herein is black Jaggery and Alum. It is pertinent to refer Section 2 (22A) of Excise Act which reads as under:

> **"Section 2(22A):- "Material' includes molasses, wash and such other substances as the State Government may, by notification, specify;"**

7. Further, proceedings were issued by the Government of Andhra Pradesh in Memo No.47802/Ex.III.1/2006-13, dated 20.12.2010 and the contents of the said memo are extracted below:

> *"The attention of the Commissioner of Prohibition and Excise, A.P., Hyderabad is invited to the reference 1st cited, wherein he has sent proposal for inclusion of Rotten Jaggery under definition of material in A.P. Excise Act, 1968 so as to ensure effective control of ID arrack crime and to improve Government Revenue.*
>
> *2. Government after careful examination of the matter, hereby decided that Black Jaggery or Rotten Jaggery or any other form of Jaggery are viewed as agriculture produce or its bi-products and inclusion of the same in the list of the 'materials' used in the manufacture of ID liquor may adversely affect the interest of genuine ryots and the traders. Hence, it was decided not to impose restriction on any agriculture produce, particularly on Jaggery.*
>
> *3. Hence, the proposal to include rotten jaggery under definition of 'material' u/s. 2 of A.P. Excise Act, 1968 has not been accepted by the Government."*

8. Thus, a conjoint reading of Section 34(e) of the Act, the definition of "material" under Section 2(22A) of the Act, and the recitals of the Government Memo dated 20.12.2010 would lead to the conclusion that black jaggery is not a material as enumerated

under Section 2(22A) of the Act. Hence, it cannot be held that the petitioners have committed an offence as laid down under Section 34(e) of the said Act.

9. Similar matters have been disposed of by a Co-ordinate Bench of this Court in Crl.P.No.15636 of 2013, wherein the proceedings against the petitioner therein were quashed holding that taking cognizance for possession of black jaggery would amount to an abuse of the process of law. Applying the same analogy, this Court is also of the considered opinion that continuation of proceedings against the petitioners herein would amount to an abuse of process of law.

10. In view of the foregoing discussion, the Criminal Petition is allowed and the proceedings against the petitioners/accused Nos.1 to 3 in C.O.R.No.545 of 2025, on the file of Thorrur Prohibition and Excise Station, Mahabubabad District, are hereby quashed.

11. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE TIRUMALA DEVI EADA

Dt.13.11.2025
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