

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

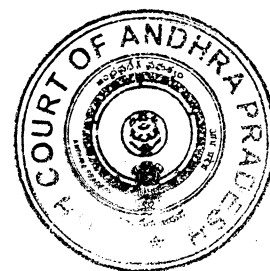
MONDAY, THE THIRTY FIRST DAY OF AUGUST,

TWO THOUSAND AND TWENTY

: PRESENT:

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO: 3231 OF 2020

**Between:**

1. Shaik Karimulla, S/o Moulali, Age 32 year, Occ Business, R/o Sreenivasa Nager, Proddatur town, YSR District, A.P.
2. Nagulagalla Narayana, S/o Naganna Age 35 year, Occ Driver, R/o Anjaneyapuram, Potladurthy, Yerraguntla, (M), YSR District, A.P.

...Petitioner/Accused Nos.3 & 4**AND**

The Special Enforcement Bureau Station, Excise Department, Proddatur, YSR District, A.P. through the Office of the Public Prosecutor, A.P. High Court, at Amaravati, A.P.

...Respondent/Complainant

Petition under Section 438 of Cr P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to

- i. Grant Anticipatory Pre Arrest Bail to the Petitioners / Accused Nos 3 & 4 in FIR No 101/2020, Date 04.07.2020, of the Special Enforcement Bureau Station, Proddatur, District YSR Kadapa

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri Sarosh Bastawala, Advocate for the Petitioners and of Public Prosecutor for the Respondent and the Court made the following.

ORDER

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO. 3231 OF 2020

ORDER:-

This petition is filed under Section 438 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") to enlarge the petitioners/A-3 and A-4 on bail in the event of their arrest in connection with Crime No.101 of 2020 dated 04.07.2020 of Special Enforcement Bureau Station, Proddatur, Y.S.R. Kadapa District, Andhra Pradesh registered for the offences punishable under Section 34 (a) of the Andhra Pradesh Excise (Second Amendment) Act, 2020 (for short 'Excise Act').

2. The case of prosecution is that on 04.07.2020 as per the instructions of the higher officials the Sub-Inspector of Police, SEB, ESTF Praddatur along with staff raided at Maduru by-pass on Proddatur to Gudipadu of Proddatur (M) YSR District, found one person coming on a two wheeler towards them with a white colour plastic bag and on suspicion, stopped the vehicle. On enquiry he revealed that the bag contains liquor bottles and revealed his identity particulars as Shaik Gaibusa, S/o Shaik Mahboob Basha who is A-1 in the above crime. The bag was opened in the presence of mediators and found one carton box each containing 48 tetra of old tavern whisky (180 ml), one cartoon box each containing 48 tetra of old admiral VSOP brandy (180 ml), one dark blue color access 125 scooty bearing registration No.AP 39 CQ 7861. On enquiry he stated that he brought those tetra packets from one Shaik Karimullah, S/o Moulali at Municipal Ground from a lorry bearing No.AP 04 TW 2196 for sale in Proddatur Town at a higher price. After seizing

the said bottles and the vehicle, the Police have proceeded to Municipal Ground Proddatur and found a person in cabin of lorry bearing No.AP 04 TW 2196. On enquiry he stated that he is owner of the lorry and he revealed his identity particulars as Shaik Mahboob Basha, S/o Silarsab who is A-2 in the crime. They opened the bag which was found in the cabin and found 96 tetra packets of Haywards Punch Fine Whisky (180 ML) (34) tetra packets of old admiral VSOP brandy, (180) (14) tetra packets of old Tavern Whisky (180 ml), (288) tetra packets of Haywards Cheer Whisky (90 ml) total (432) tetra packets of NDPL. On enquiry about the said liquor, he stated that his brother-in-law by name Shaik Karimullah, S/o Moulali along with his driver by name Nagulagalla Narayana bought those tetra packets from Bangalore for sale in Proddatur Town at higher prices.

3. Heard Sri Sarosh Bastawala, learned counsel for the petitioners/A-3 and A-4 and the learned Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner submits that the petitioners are alleged to have committed the offence under Section 34 (a) of the Excise Act, which reads as under:

"34. Penalties for illegal import etc. - Whoever, in contravention of this Act or of any rule, notification or order made, issued or passed thereunder or of any licence or permit granted or issued under this Act,-

- (a) imports, exports, transports, manufactures, collects or possesses or sells any intoxicant; or
- (b) taps any excise tree; or
- (c) draws toddy from any excise tree; or
- (d) constructs or works any distillery or brewery; or
- (e) uses, keeps, or has in his possession any materials, stills, utensils, implements or apparatus whatsoever for the purpose of manufacturing any intoxicant other than toddy; or

- (f) bottles any liquor for purposes of sale; or
- (g) buys any intoxicant; or
- (h) possesses any material or film either with or without Government logo of any district in the State of Andhra Pradesh or any other State or wrapper or any other thing in which intoxicants can be packed or any apparatus, or implement or machine for the purpose of packing any intoxicant;
- (i) removes any intoxicant from any distillery, brewery or warehouse licenced, established or continued under this Act"

5. Learned counsel further submits that except the statements of A-1 and A-2, nothing has been seized from the petitioners/A-3 and A-4. There is no evidence to show that the petitioners/A-3 and A-4 have committed the offence under Section 34(a) of the Excise Act.

6. Learned Public Prosecutor submits that as per the confession statement of A-1 and A-2 that they have purchased the liquor bottles from the petitioners/A-3 and A-4, the petitioners herein are arrayed as A-3 and A-4 in the crime and he opposed the application for anticipatory bail.

7. In view of the fact that except the statements of A-1 and A-2 there is no other material on record to disclose that the petitioners/A-3 and A-4 have committed the said offence and further submission of the learned counsel that A-1 and A-2 were enlarged on bail, this Court feels that this is a fit case for grant of bail to the petitioners/A-3 and A-4.

8. Accordingly, this Criminal Petition is allowed. The petitioners/A-3 and A-4 shall be released on bail in the event of their arrest in connection with Crime No.101 of 2020 dated 04.07.2020 of Special Enforcement Bureau Station, Proddatur, Y.S.R. Kadapa District, Andhra Pradesh on condition of executing self bond for Rs.50,000/- (Rupees fifty thousand only) each with

two sureties for a likesum each to the satisfaction of the Station House Officer, Special Enforcement Bureau Station, Proddatur, Y.S.R. Kadapa District, Andhra Pradesh

Consequently, miscellaneous applications pending, if any, shall stand closed.

//TRUE COPY//

Sd/- K. JAGANMOHAN
DEPUTY REGISTRAR

SECTION OFFICER,

- To,
1. The Station House Officer, Special Enforcement Bureau Station, Proddatur, District YSR Kadapa (by RPAD)
 2. One CC to Sri Sarosh Bastawala, Advocate [OPUC]
 3. Two CCs to Public Prosecutor, High Court of Andhra Pradesh. [OUT]
 4. One spare copy

SP

HIGH COURT

LKJ

DATED: 31/08/2020

ORDER

CRLP.No.3231 of 2020

DIRECTION

