

**ORDER ON THE BAIL APPLICATION FILED UNDER SECTION
437 OF CR.P.C ON BEHALF OF THE ACCUSED No. 2**

The instant Bail Application has been filed by the Learned Counsel for the Accused 2 under Sec. 437 of Cr.P.C for the offence punishable under Section 15, 32 and 34 of K. E. Act.

2. It is stated in the Bail Application that Accused No. 2 has not committed any offence as alleged in the complaint. He has been already released on interim bail. He has been arrested on 13-4-2020 and released on 6-6-2020 on interim bail and as per the conditions imposed, he has filed the present Bail Application. Further, it is stated that the alleged offences are neither punishable with death nor life imprisonment. Further, Accused No.2 is ready to abide any conditions imposed by this court and ready to offer surety. On these grounds learned counsel has prayed to allow the Bail Application.

3. On the other hand, Learned APP has filed his detailed objection inter-alia contending that the offence alleged against the Accused No. 2 is non bailable in nature. If, the Accused No. 2 is released on bail, there might be chance of absconding and there might be chance of threatening the prosecution witnesses and thereby hamper the prosecution evidence. On these grounds learned APP has prayed to dismiss the bail application.

4. Heard both sides. Perused the Bail Application, Objection and materials available on records.

5. Now, the Point arises for the determination of this Court are as follows:

Point No.1: Whether the Learned Counsel for the Accused No. 2 has made out sufficient grounds to allow the Bail Application filed under Sec. 437 of Cr.P.C ?

Point No.2 : What Order ?

6. My answer to the above Points are as under :

***Point No. 1 : In the Affirmative,
Point No. 2 : As per the final Order
for the following:***

REASONS

7. **Point No.1:** The Instant Bail Application has been filed by the Learned Counsel for the Accused No.2 under Section 437 of Cr.PC with a prayer to release Accused No.2 on bail.

8. The brief facts of the Prosecution case is that the A-1 and A-2 on 2-4-2020 at about 3.15 p.m., near Ayyappa Tea Stall,

Adhyapak Nagar, Navanagar, Hubballi found in illegal possession of tetra liquor packets without having pass or permit and were selling the same and thereby committed the offences punishable under Sec. 15, 32 and 34 of K.E.Act.. Hence, the PSI of Navanagar PS has lodged the complaint against the accused.

9. After lodging the Complaint by the Complainant, the case was registered against the accused persons for the offence punishable under Section 15, 32 and 34 of K.E.Act.

10. I have perused the FIR, Complaint and the other documents available on record.

11. While granting the bail the Court should keep in mind that the severity of the punishment, behavior and standing of the accused, circumstances, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with.

12. Admittedly the alleged offence is Non-Bailable in nature. But, the same is not punishable with death or life imprisonment. During the course of investigation, Accused No. 2 is under body warrant in this case.

13. Upon going through the materials available on record, the Address of the Accused No.2 shows that he is the Permanent Resident of Amargol, Hubballi. The offence alleged against the accused No. 2 is triable by this Court. More over, in this case investigation is completed and Charge-sheet has been filed by the Police. Further Accused No. 2 has submitted that he is ready to abide any conditions imposed by this Court and he is ready to offer

surety. Under such circumstances, sufficient grounds have been made out by the Learned Counsel for Accused No. 2. Having regard to the facts and circumstances of the case and by considering the objections filed by the learned APP, the Bail Application filed by the Accused No. 2 is allowed by imposing certain stringent conditions. Accordingly, I answer Point No.1 is “**in the Affirmative**”.

14. **Point No.2:** As per my detailed discussion to Point No. 1 as stated supra and my answer to the above Point No.1 is “**in the Affirmative**”, I proceed to pass the following :

ORDER

The Bail Application filed by the Learned Counsel for the Accused No. 2 under Section 437 of Cr.PC is hereby allowed.

Accused No. 2 is ordered to be enlarged on bail by executing his personal bond for Rs 50,000/- with one surety for the like-sum and subject to the following:

CONDITION

1. The Accused No. 2 shall appear before this Court on all hearing dates without fail.

(Dictated to the stenographer directly on computer, corrected and then pronounced by me in the open Court on this the 22nd day of January 2021)

(Smt. Kumari Sujatha)
III Addl. Senior Civil Judge and JMFC,
Hubballi.