

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

[3163]

MONDAY, THE TWENTY THIRD DAY OF AUGUST,
TWO THOUSAND AND TWENTY ONE

:PRESENT:

THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

IA No. 2 OF 2021

IN

CRLP NO: 4694 OF 2021

Between:

Bhavanasi Koteswara Rao @ Kotaiah @ Koti, S/o Venkata Ramaiah, Aged 39 Years,
Occ: Kirana Business, D No 1-18, Near Ramalayam Street, Veldurthi, Guntur District.

...Petitioner/Accused No.1
(Petitioner in CRLP 4694 OF 2021
on the file of High Court)

AND

1. The State Of Andhra Pradesh, Represented by its Public Prosecutor High court of Andhra Pradesh at Amaravathi
2. G V Prasad Reddy, Enforcement Inspector, Station House officer, Special Enforcement Bureau/ Excise Police Station, Macherla Guntur District

...Respondents
(Respondents in-do-)

Petition under Section 482 of Cr.PC, praying that in the circumstances stated in the memo of grounds filed in CrI.P., the High Court may be pleased to pass an interim stay of all further proceedings in FIR No.124 of 2021 of Special Enforcement Bureau/ Excise Police Station, Macherla, Guntur District, including his arrest, pending disposal of CRLP No. 4694 of 2021, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and memo of grounds filed in CrI.P., and upon hearing the arguments of Sri K Jyothi Prasad, Advocate for the Petitioner, and Public Prosecutor for Respondent No.1, the Court made the following

ORDER:

The petitioner is A-1 in Crime No.124 of 2021 of Special Enforcement Bureau/Excise Police Station, Macherla, Guntur District. A case under Section 7(A) r/w 8(e) of the Andhra Pradesh Prohibition Act, Sections 3 and 4 of the GUR Regulation, 1968, and under Section 34(e) of the A.P. Excise Act, 1968 was registered against him along with other accused.

Admittedly, the petitioner is a kirana merchant doing business in it. The jaggery that was found to be in possession of A-2 for the purpose of manufacturing illicit liquor is said to have been purchased from the petitioner herein, who is A-1. Therefore, on the said ground, the petitioner, who is A-1, is implicated as an accused in this case. This Court has earlier based on previous precedents on the point, held in Criminal Petition No.3219 of 2021 that mere selling of jaggery by a kirana merchant or purchase of jaggery from the said kirana merchant do not attract any offence under Section 34(e) of the Excise Act or any other offences. Therefore, in view of the same, the petitioner could make out a strong prima facie case warranting interference of this Court to examine in the main Criminal Petition whether launching of criminal prosecution against the petitioner in the said facts and circumstances of the case amounts to abuse of process of Court or not and whether the F.I.R registered against him is liable to be quashed or not.

Therefore, there shall be interim stay of further proceedings pursuant to registration of F.I.R in Crime No.124 of 2021 of Special Enforcement Bureau/Excise Police Station, Macherla, Guntur District, against the petitioner herein alone, who is A-1, including arrest, till the next date of hearing. Investigation in respect of other accused shall go on.

SD/- K.SRINIVAS RAJU
ASSISTANT REGISTRAR

//TRUE COPY//

f SECTION OFFICER

To,

1. The Special Enforcement Bureau/ Excise Police Station, Macherla, Guntur District
2. G V Prasad Reddy, Enforcement Inspector, Station House officer, Special Enforcement Bureau/ Excise Police Station, Macherla Guntur District
3. Two CCs to Public Prosecutor, High Court of A.P., at Amaravati (OUT)
4. One CC to Sri K. Jyothi Prasad, Advocate (OPUC)
5. One spare copy

Skm

HIGH COURT

CMR,J

DATED:23/08/2021

ORDER

**IA. No. 2 of 2021
IN
CRLP.No.4694 of 2021**

INTERIM STAY

