

## **D.Laxman Lakshman vs The State Of Andhra Pradesh on 1 March, 2021**

HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI

Criminal Petition No.1038 of 2021

ORDER:

This Criminal Petition is filed under Section 438 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") seeking pre-arrest bail to the petitioner/A.3 in the event of his arrest in connection with Crime No.140 of 2020 of II Town Police Station, Proddatur, YSR Kadapa District, registered for the offences punishable under Section 353, 273 read with 34 of the Indian Penal Code, 1860 and Section 34 (A) of the A.P. Excise Act and Section 24 (1) read with Section 6 (A) of the Cigarettes and Other Tobacco Products (Prohibition of advertisement And Regulation Of Trade And Commerce, Production, Supply And Distribution) Act, 2003 (COTP Act).

2. The case of the prosecution is that on 18.07.2020, on receipt of credible information about illegal possession and storage of Gutka and liquor, the Inspector of Police, II Town Police Station and the Inspector of Police, Special Enforcement Bureau, Proddatur, proceeded to inside the Sivaram Reddy decoration godown at about 8.30A.M., where the police found A.1 and A.2 are in possession of liquor bottles and tobacco products and the police seized 3456 Tetra Whisky packets belong to 8PM company, 74 Whisky plastic bottles belong to 8PM company, 2400 Blue Bull Tobacco packets under the cover of mediator's report. On interrogation, they confessed that at the instance of one Lakshman, who is resident of Bellary, and who is doing similar business, they are doing the business to get 2 LK, J easy money. They further confessed that the said Lakshman told him that the rates of liquor bottles of Ballery are very cheap when compared with the rates at Andhra Pradesh and he will supply bottles to them from Ballery to Proddatur and asked them to sell the same at Proddatur with higher rates and to distribute the profits equally among them. On the said confession, the petitioner is arrayed as A.3.

3. Heard Sri V. Roopesh Kumar Reddy, learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner submits that in so far as the offences under COTP Act are concerned, transportation of tobacco products is not an offence and the police cannot register the offences under the Indian Penal Code, except under the Food Safety and Standards Act. He also submits that this Court, in a batch of cases in Criminal Petition Nos.3718 of 2018 and 5103 of 2019 and batch, has already laid down the ratio and basing on the same, several orders were passed by this Court. He further submits that in so far as the offence under Section 34 (A) of the A.P. Excise Act is concerned, the petitioner is a resident of Bellary and there is no active involvement of the petitioner in committing such offence and he is no way connected to the activity of A.1 and A.2, as such, the ingredients of Section 34 (A) of the A.P. Excise Act have not been attracted.

5. On the other hand, learned Additional Public Prosecutor, on instructions, states that a huge quantity of liquor bottles 3 LK, J were recovered from the possession of A.1 and A.2 and the petitioner has also knowledge about the same, as such, the ingredients of Section 34 (A) are attracted. He further submits that A.1 and A.2 have already been arrested and remanded to judicial custody. Hence, the petitioner is not entitled for pre- arrest bail.

6. Having regard to the facts and circumstances of the case and taking into consideration the fact that A.1 and A.2 were already arrested and remanded this court is not inclined to grant pre-arrest bail to the petitioner. However, the counsel for the petitioner submits that the petitioner will surrender before the concerned Court and make appropriate application seeking bail. On such surrender and on moving appropriate application seeking bail, the competent court shall consider the same on the same day in accordance with law.

Accordingly, the Criminal Petition is disposed of.

\_\_\_\_\_ LALITHA KANNEGANTI, J Date: 01.03.2021 Ksn