

(2023) 08 KAR CK 0010
In the Karnataka High Court
Case No : Criminal Petition No. 5454 Of 2023

P.M. Biju

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 08-08-2023

Acts Referred:

Karnataka Excise Act, 1965 — Section 13(1)(a), 13(1)(f), 32(1), 43
Code Of Criminal Procedure, 1973 — Section 438

Citation : (2023) 08 KAR CK 0010

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Pancham R D, K.P. Yashoda

Final Decision : Allowed

Judgement

S Vishwajith Shetty, J

1. The accused in Crime No.80/2022-23 registered by Excise Inspector, Somwarpet Range, Kodagu District, for the offences punishable under Sections 13(1)(a), 13(1)(f), 32(1) and 43 of the Karnataka Excise Act, 1965, is before this Court under Section 438 of Cr.P.C.

2. Heard the learned counsel for the parties.

3. On credible information regarding preparation and sale of illicit liquor, on 16.04.2023, the Excise Constable, Somwarpet Range, Somwarpet had lodged the complaint before the Excise Inspector, Somwarpet Range, Kodagu District and after registering the FIR in Crime No.80/2022-23 for the aforesaid offences, raid was conducted on the house of the petitioner and 22.250 liters of illicit liquor was allegedly found in the house of the petitioner. The petitioner is said to have escaped from his house. Apprehending arrest in the said case, petitioner had filed bail application before the I Additional District and Sessions Judge, Kodagu, Madikeri, under Section 438 of Cr.P.C. in CrI.Misc.No.120/2023. The said application was dismissed on 26.04.2023. It is under these circumstances, the

petitioner is before this Court.

4. Learned counsel for the petitioner has reiterated the grounds urged in the petition and submits that the petitioner has no criminal antecedents and a false case has been lodged against him, which is politically motivated.

5. Per contra, learned High Court Government Pleader has opposed the bail application and submits that custodial interrogation of the petitioner is necessary.

6. Material on record goes to show that on credible information, Excise Inspector of Somwarpet Zone along with his staff had raided the house of the petitioner and had found that he had stored 22.250 liters of illicit liquor in his house. Undisputedly, the petitioner was not at home at that point of time and there were no other inmates in the house of the petitioner at the time of raid. The illicit liquor found in the house of the petitioner and other articles which were used for storing and preparing illicit liquor have been seized under mahazar in the presence of panchas. The petitioner undisputedly has no criminal antecedents. It is the specific case of the petitioner that a false case has been lodged against him during election time. The maximum punishment for the alleged offence is imprisonment upto five years and the case is triable by the Court of Magistrate. Under these circumstances, I am of the view that petitioner's case for grant of anticipatory bail can be considered favorably. Accordingly, following:

ORDER

Criminal petition is allowed. The respondent - Police or any other police in the State of Karnataka are directed to release the petitioner in the event of his arrest in Crime No.80/2022-23 registered by Excise Inspector, Somwarpet Range, Kodagu District, for the offences punishable under Sections 13(1)(a), 13(1)(f), 32(1) and 43 of the Karnataka Excise Act, 1965, subject to the following conditions:

1. Petitioner shall execute a personal bond for a sum of Rs.1,00,000 (One Lakh only) with two sureties for the likesum to the satisfaction of the investigating officer.
2. Petitioner shall regularly appear before the Trial Court without fail unless exempted by the Trial Court for valid reasons.
3. Petitioner shall not tamper with the prosecution witness either directly or indirectly.