

(2012) 08 KAR CK 0045
In the Karnataka High Court
Case No : Criminal P. NO. 11015 of 2012

Sri Maruti Siddappa Hulikai

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 30-08-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Karnataka Excise Act, 1965 — Section 32, 34, 38 A

Citation : (2012) 08 KAR CK 0045

Hon'ble Judges : Jawad Rahim, J

Bench : Single Bench

Advocate : S.B. Deyannavar, for the Appellant; Vinayak S.Kulkarni, ASPP, for the Respondent

Final Decision : Allowed

Judgement

Jawad Rahim

1. Petitioner aged 70 years is arraigned as the sole accused for the charge punishable under Sections 32, 34 and 38A of the Karnataka Excise Act on the allegation that the PSI, Special Cell, Excise and Lottery Division, while on patrol duty, at 6.00 a.m. on 5.3.2012, visited Muttanatti, Hulyanur, Autonagar Kanabargi villages, he came near Muchandi village. He received credible information that the petitioner had stored illicit liquor in his cattle shed. He rushed to the spot with Panchas and reached the place where he found 4 litres of liquor, which he presumed to be illicit. It was seized and the petitioner was proceeded against. Petitioner was arrested and produced before the jurisdictional magistrate. His bail plea was turned down. He made a second attempt before the sessions judge who also declined to grant the relief. Hence, he is in this court.

2. It is not in dispute the quantity of liquor is only 4 litres from the residence of the petitioner. a-large is raked u/s 32 read with Section 38A of the Act. The raid is in pursuance to credible information and there is no other material collected to show that such liquor was illicitly brewed or excise duty payable was not paid.

3. Be that as it may, considering the circumstances in which the raid is conducted and the quantity of liquor seized, and also the fact that petitioner has already been interrogated and confined to prison, liberality u/s 439, Cr.P.C. in favour of the person who is aged, must reach him. The petition is, therefore, allowed. The petitioner is admitted to bail subject to the following conditions:

- a) He shall execute a bond for a sum of Rs.25,000/- to the satisfaction of the trial court with one surety for the like sum;
- b) He shall report to the jurisdictional police station till investigation report is filed once in a week, i.e. on every Saturday between 7.00 a.m. and 7.00 p.m. and
- c) He shall not tamper with prosecution witnesses or influence them in any manner.

Learned ASPP is permitted to file memo of appearance within four weeks.