



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 9<sup>TH</sup> DAY OF MAY, 2024**

**BEFORE**

**THE HON'BLE MRS JUSTICE M G UMA**

**WRIT PETITION NO. 12274 OF 2024 (GM-RES)**

**BETWEEN:**

KALPATHARU BREWERIES AND  
DISTILLERIES PVT. LTD.,  
A COMPANY INCORPORATED  
UNDER COMPANIES ACT 1956,  
HAVING A DISTILLERY LICENSE IN FORM-2,  
ISSUED UNDER RULE 4 OF THE KARNATAKA EXCISE  
(DISTILLERIES AND WAREHOUSE) RULES 1967,  
PLOT NO.242, AIADB,  
SOMAPURA INDUSTRIAL AREA,  
NIDAVANDA VILLAGE, DABASPET,  
BENGALURU RURAL DISTRICT - 562 111,  
REPRESENTED BY ITS MANAGING DIRECTOR  
S. KANTAPPA,  
S/O NEELAKANTAPPA,  
AGED ABOUT 62 YEARS,  
NO.62/16, 20 'A' MAIN,  
1ST 6TH BLOCK, RAJAJINAGAR,  
BENGALURU - 560 010.

...PETITIONER

(BY SRI. G.K. BHAT, SENIOR ADVOCATE FOR  
SMT. SUDHA D, ADVOCATE)

**AND:**

THE STATE OF KARNATAKA  
BY SUB-INSPECTOR OF EXCISE,  
NELAMANGALA SUB-DIVISION,  
NELAMANGALA, BENGALURU - 562 123.

...RESPONDENT

(BY SMT. WAHEEDA M.M, HCGP)





THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C PRAYING TO QUASH THE F.I.R. NO. 9/2023-24/0502/SIE/050204 DATED 18/03/2024 REGISTERED BY THE RESPONDENT AND HAS REPORTED TO THE LEARNED PRINCIPAL CIVIL JUDGE AND JUDICIAL MAGISTRATE 1ST CLASS, NELAMANGALA AS PER ANNEXURE-E AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

Heard learned counsel for the petitioner and learned High Court Government Pleader for the respondent/State.

2. Learned counsel for the petitioner submits that the petitioner is a Company incorporated under Companies Act, 1956 having distillery license issued by the Karnataka Excise Department. As per the license, the liquor and beer produced by the petitioner was required to be supplied only to the Karnataka State Beverages Corporation Limited (KSBCL). The petitioner was not permitted to supply his product to any other person.

3. Learned counsel submitted that the petitioner raised an invoice as per Annexure-D on 16.03.2024 for supply of the consignment worth Rs.36,00,000/- to KSBCL and



necessary permit was issued on the very same date which was valid upto 22.03.2024. But before expiry of the validity of the permit, on 18.03.2024 itself the Sub-Inspector of Excise registered the FIR on the ground that on that date i.e., on 18.03.2024, the truck loaded with liquor bottles was parked in the premises of the petitioner company. No other allegations are made against the petitioner. When the validity of the permit is not yet expired, no offence was made out against the petitioner. The truck is seized, which is causing hardship to the petitioner. Hence, he prayed for allowing the petition by quashing the criminal proceedings.

4. Per contra, learned High Court Government Pleader opposing the petition submits that during the Loksabha Election 2024, when the Election Code of Conduct was in force, the petitioner parked the truck loading with liquor in the company premises and thereby committed the offence. Therefore, he prays for dismissal of the petition.

5. The admitted facts of the case are that the petitioner is a company having distillery license for producing liquor, whisky, beer etc. It is also admitted that the petitioner was permitted to supply the beverages only to the KSBCL and it



is not permitted to sell the product to any other person. Annexure-D is the invoice raised by the petitioner for selling the liquor worth of Rs.36,00,000/- to KSBCL, which is on 16.03.2024. Copy of the permit is also produced according to which the department permitted the petitioner to deliver the liquor to KSBCL on or before 22.03.2024. In the meantime, first information came to be lodged on 18.03.2024 alleging that the truck loaded with liquor bottles was parked in the premises of the petitioner and thereby committed the offence.

6. Even if the first information is accepted as it is in the light of the invoice and the permit produced by the petitioner, no offence either under Section 32 or under Section 34 of the Karnataka Excise Act, 1965 is made out. Therefore, *prima facie* it is the case of abuse of process of law by registering the case during the Loksabha Elections taking advantage of the Election of Code of Conduct. If at all the petitioner was not permitted to deliver the liquor to KSBCL during the period of Code of Conduct, the department could not have issued the permit in favour of the petitioner. In this view of the matter, the criminal proceedings is to be quashed. Accordingly, I pass the following:



**::ORDER::**

- i) The petition is allowed.
- ii) The proceedings in F.I.R.No.9/2023-24/0502/SIE/050204 dated 18.03.2024 registered by the respondent is hereby quashed.

**Sd/-  
JUDGE**

GJM  
List No.: 1 Sl No.: 97  
CT: BHK