

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7336 of 2016

ORDER:

This Criminal Petition is filed under Sections 437 & 439 Cr.P.C by petitioner/ sole accused seeking bail in S.C. No.349 of 2015 on the file of Assistant Sessions Judge, Razole, which is outcome of Crime No.43 of 2013 of SHO, Sakhinetipalli Police Station, registered for the offences punishable under Sections 417, 420, 376 and 365 IPC.

2. Heard the learned counsel for the Petitioner and the learned Additional Public Prosecutor for the Respondent-State (AP) and perused the material placed on record.

3. It is the submission of the learned counsel for the petitioner that the petitioner was earlier granted bail and was enlarged after execution of bond as per the terms of the bail order dated 13.06.2013 passed in CrI.M.P. No.918 of 2013 by the II Additional District & Sessions Judge, Amalapuram, East Godavari District. There is nothing to show that the said bail order was cancelled as contemplated under Section 439 (2) Cr.P.C if not under Section 437 (5) Cr.P.C.

4. No doubt, for the absence of the petitioner/ accused pursuant to the enlargement on bail, subsequently from the failure to comply with the terms of bond executed of due appearance from the solvency given by the sureties of due production before the Court. Non-bailable warrant was issued and the same was executed and he was taken to custody. The issuing of NBW and taking him to custody no way cancels the earlier bail as per the provisions of the Cr.P.C and the bail order is in force but for asking for payment of penalty of earlier bond executed by the accused to accept

fresh solvency as well. As the bail application is unsustainable but for the remedy, to pay penalty before the trial Court pursuant to earlier bond, is forfeited. The petitioner/ accused shall submit fresh solvency as per the order dated 13.06.2013, is in force.

5. Accordingly, the Criminal Petition is disposed of, to work out the remedies before the learned Sessions Judge, Razole.

Dr. B.SIVA SANKARA RAO J,

Date:26.05.2016
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