

HON' BLE SRI JUSTICE SURESH KUMAR KAIT

CrI.P. No. 15041 of 2016

DATE: 31.10.2016

Between:

Syed Subhan

.. Petitioner/
A1

And

The State of Andhra Pradesh

.. Respondent



ORDER:-

This Criminal Petition is filed under Sections 437 & 439 Cr.P.C. seeking to grant regular bail to the petitioner – A1 in connection with P.R.C.No. 36 of 2014 on the file of the Court of the Judicial Magistrate of First Class, Kuppam, Chittoor District in Crime No.70 of 2013 of Kuppam Police Station, registered for the offences punishable under Sections 302, and 201 read with 120-B IPC.

The brief facts of the case are that one V. Vikas, aged 8 years, who was son of the *de facto* complainant was missed on 29.05.2013 at about 04:00 p.m. at Urban Colony, Kuppam Mandal, as such, a case was registered as “boy missing” on 30.05.2013. Subsequently, as the deceased –boy was found in the bushes near Biradanapally Burial Ground situated by the side of Gonugur road, Section of law was altered to Sections 302, and 201 read with 120-B IPC after confirming involvement of the petitioner and another in the commission of the alleged crime. The police arrested the petitioner along with A2, and later, the petitioner was released on bail. Subsequently, the learned Judicial Magistrate of First Class, Kuppam issued non-bailable warrant against the petitioner on 21.06.2014 for his absence. After execution of NBW, when the petitioner was produced before the Court, the learned Magistrate recalled NBW vide order dated 09.12.2014. Again,

on 20.12.2015, the petitioner remained absent, as such, the trial Court issued NBW for the second time and took the petitioner into judicial custody on 27.06.2016. Since then, the petitioner has been in judicial remand.

The learned counsel for the petitioner has submitted that since 16.02.2015, the petitioner has been suffering from bleeding piles due to which he could not present before the learned Magistrate. His absence is neither willful nor wanton, but for the *bona fide* reason as stated above for which he was advised to take bed-rest as he was unable to move freely because of his ailment.

However, no medical evidence to that effect is placed on record. The petitioner is a habitual absentee and does not attend the Court on the dates fixed, thus, he deserves to be remained in judicial custody.

Rejecting of the plea of the petitioner by this Court is not an embargo on the part of the trial Court to consider the case of the petitioner on an application that may be filed by him if it feels that he is entitled to be granted bail.

With the above observation, the Criminal Petition is dismissed.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

31.10.2016
bcj