

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
CRIMINAL PETITION No.7321 of 2016

ORDER:

This Criminal Petition is filed under Section 438 Cr.P.C by petitioner/Accused seeking anticipatory bail in connection with a case in Crime No.150/2016 of Muvvalavanipalem Police Station, Visakhapatnam, registered against him for the offences punishable under Sections 354, 448 and 427 IPC and Section 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act').

2. Heard learned counsel for the petitioner, the learned Additional Public Prosecutor for the respondent-State and perused the material placed on record.

3. The petitioner is the sole accused in the aforesaid crime. A perusal of the bail application shows that under the influence of the *de facto* complainant, who is mother-in-law of one Kishore Kumar, who is a Christian, a police constable, was set up to foist a case against the petitioner due to long pending ill feelings between both of them in relation to boundary dispute and when the said Kishore Kumar tried to dug a bore well in the middle of RCC public road by encroaching it, the petitioner gave a compliant to the Municipal authorities and the authorities stopped the illegal acts of the Kishore Kumar. Since then the said Kishore Kumar bore grudge against the petitioner and foisted the present case.

4. It is the submission of learned Public Prosecutor that a perusal of the very report shows that there is *prima facie* allegation against the petitioner and there is bar under Section 18 of the Act and hence, the application deserves to

be dismissed.

5. A perusal of the material on record shows that there is nothing on record to show about the occurrence that had taken place in the public view, even as seen from the report, attracting the offence punishable under Section 3 (1) (x) of the Act.

6. Having regard to the circumstances stated in the petition as well as submissions made by the learned counsel, instead of dismissing from not entitled to the pre-arrest bail, but for regular bail in considering petitioner's personal liberty, this application is disposed of, by giving liberty to the petitioner-Accused to surrender before the Learned Magistrate concerned to take into custody under Section 44 Cr.P.C by virtue of this order, move before the learned Special Judge for regular bail with affidavit of surrender on same day and with notice to learned Public Prosecutor concerned and in such an event, the learned Special Judge shall grant bail in favour of the petitioner with necessary conditions preferably on the same day if not at least by the next day.

Dr. B.SIVA SANKARA RAO, J

May 26, 2016
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THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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