

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.2446 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. challenging the order dated 30-12-2015 passed in CrIMP(SR) No.11630 of 2015 in C.C.No.642 of 2011 by the learned II Additional Judicial Magistrate of First Class, Tanuku, dismissing the application filed under Section 70 (2) Cr.P.C. seeking to recall Non-Bailable warrant issued against the petitioner.

Heard the learned counsel for the petitioner and the learned Public Prosecutor and perused the material on record.

The main grievance of the petitioner is that since the petitioner is suffering from viral fever, he could not appear before the Court on 30-01-2015, due to which the learned Magistrate issued NBW against the petitioner. Even though he filed CrI.M.P (SR) No.11630 of 2015 in C.C.No.642 of 2011 for recalling NBW, the same was dismissed without considering the reasons assigned by the petitioner in the petition. The fact remains that the offence arises out of the offence punishable under Section 138 of Negotiable Instruments Act and the matter is coming up for further evidence of defence.

Considering the facts and circumstances of the case and in view of nature of the offence punishable under the Negotiable Instruments Act, this Court is of the view that interests of justice would be met, if NBW issued against the petitioner is recalled, enabling him to appear before the Court to put his defence, with certain terms and conditions.

Therefore, the petitioner/A-3 is directed to file a fresh

petition under Section 70 (2) Cr.P.C. seeking to recall Non-bailable warrant issued against him and on filing of such application, the learned Magistrate is directed to consider the same on the same day and recall the warrant on condition of the petitioner/A-3 executing a personal bond for Rs.1,000/- (Rupees one thousand only) with one surety for securing his appearance before the Court.

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With the above directions, the Criminal Petition is allowed. Consequently, miscellaneous petitions, if any, pending, shall stand closed.

RAJA ELANGO, J

Date: 25-02-2016

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