

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CRL.P.NO.15593 OF 2016

O R D E R

Vide the present petition, the petitioner/A-1 seeks to quash the order dated 8.9.2016 passed by the court of I Additional Assistant Sessions Judge at Warangal in Crl.M.P.No.123/2016 in S.C.No.9/2013, and thereby to direct the court below to handover the passport of the petitioner and permit him to leave for USA pending trial.

By order dated 16.8.2016 in Crl.M.P.No.112/2016, the trial court granted bail to the petitioner with certain conditions. The said conditions are as under:

“Sureties to be produced by A-1 must be respectable persons in the society with permanent abode and they must have immovable properties and they must produce in the court verified copies of title documents of immovable properties along with originals so that the court will verify the copies with originals and return the originals. A-1 should file undertaking in court that he will assist the court for early disposal of the case and he would regularly attend the court on every date of adjournment without fail. He should furnish his residential address, where he intends to reside, within the jurisdiction of this court besides furnishing his temporary and permanent address of USA with specific door number and furnish to the court his telephone number and e-mail Id including his working place address with designation in USA. A-1 should also file undertaking to the effect that he will not apply for another passport in India nor he would make any efforts to flee for USA till the disposal of the case. Prosecution is at liberty to inform embassy of USA in India at New Delhi and U.S. Consulate Office in Hyderabad about pendency of this case against A-1 requesting them to take all the precautions to see that A-1 will not go to USA till the disposal of the case, if necessary by enclosing a copy of this order. If A-1 fails to comply any of these conditions, bail now granted shall stand cancelled.”

The petitioner sought for relaxation of the above conditions by filing the Crl.M.P.No.123/2016. The trial court by the impugned order, dismissed the same. Hence the present petition.

As per the averments and the submissions of the learned counsel, it could be seen that as the petitioner is working in USA for the last four years, for the purpose of attending the trial of the case, he had taken leave from 22.10.2016 to 20.11.2016. Schedule for the trial was directed vide order dated 16.8.2016 and the charges were framed against the petitioner vide order dated 18.11.2016. Thereafter, the matter was adjourned on three occasions.

It is pertinent to mention that on one side the court has directed the petitioner to remain in India for attending the trial, whereas on the other hand, the de facto complainant is in U.S.A. and as per the submissions of the learned counsel for the petitioner, she would come to India, by the end of December, 2016. Taking note of this circumstance and also as L.W.2, the father of the de facto complainant was suffering from leg pain and fever, the trial court on 9.9.2016, adjourned the case to 29.12.2016. When the trial is adjourned to 29.12.2016, no purpose would be served in making a person, who is working abroad, to remain idle in India till then. Right to earn livelihood is fundamental. Therefore, he cannot be confined to India, especially at the leisure and pleasure of the de facto complainant and other witnesses.

Accordingly, I hereby allow the petitioner to leave for U.S.A. However, he shall remain present in person before the court on the date of adjournment on 29.12.2016. At that time, he shall come to India for two weeks for trial. If the trial is concluded, within that period, he will face the result of the same. If the trial court, in any circumstance, could not conclude the trial, it shall allow him to leave for USA and bound him to appear before

the court on the next date of hearing. Such hearing shall be fixed after a gap of at least twenty days.

The petitioner shall deposit an amount of Rs.5,00,000/ (Rupees five lakhs only), before the trial court, which shall be invested in F.D.R. and shall be placed on the record of trial court. The same shall be subject to the out of the trial. The trial court shall release the passport of the petitioner.

I hereby make it clear that if the petitioner, on any of the date fixed, fails to appear before the trial court, the F.D.R. amount shall stand forfeited and the trial court shall proceed in accordance with law.

In view of the above direction, the impugned order is set aside and the order dated 16.8.2016 in CrI.M.P.No.112/2016 stands modified accordingly.

The criminal petition is accordingly allowed.

SURESH KUMAR KAIT,J

DATE:09.11.2016

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