

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 2011 of 2016

ORDER:

The petitioner, who is accused No.1 in Crime No.214 of 2015 of Karepally Police Station, Khammam District, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with the above crime, registered for the offences punishable under Section 306 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

At the time when the matter is taken up for hearing, it is brought to the notice of the Court that earlier the petitioner along with accused Nos.2 to 7 filed Criminal Petition No.720 of 2016. By an order dated 01.02.2016, this Court while granting anticipatory bail to accused Nos.2 to 7 rejected the request of the petitioner.

Thereafter, the present application is again filed seeking the same relief. Since there are no changed circumstances the request of the petitioner cannot be considered. The issue as to whether an application for bail/anticipatory bail can be filed without there being any changed circumstances, came up for consideration before the Apex Court in ***Kalyan Chandra Sarkar v. Rajesh Ranjan @***

Pappu^[1], wherein the Apex Court held as under:

“Before concluding, we must note though an accused has a right to make successive applications for grant of bail the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications. In the impugned order we do not see any such fresh ground recorded by the High Court while

granting bail. It also failed to take into consideration that at least on four occasions order refusing bail has been affirmed by this Court and subsequently when the High Court did grant bail, this Court by its order dated 26th July, 2000 cancelled the said bail by a reasoned order. From the impugned order, we do not notice any indication of the fact that the High Court took note of the grounds which persuaded this Court to cancel the bail. Such approach of the High Court, in our opinion, is violative of the principle of binding nature of judgments of superior court rendered in a lis between the same parties, and in effect tends to ignore and thereby render ineffective the principles enunciated therein which have a binding character.”

In the absence of any change in fact or law and having regard to the judgment of the Apex Court referred to above, I am not inclined to grant anticipatory bail to the petitioner. It is always open to the petitioner to surrender before the Court concerned and make an application for regular bail after giving prior notice to the Public Prosecutor, in which event the same shall be dealt with on merits in accordance with law at the earliest.

With the above direction, the Criminal Petition is disposed of.

C. PRAVEEN KUMAR, J

24.02.2016
gkv

[\[1\]](#) AIR 2005 SC 921