

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.13097 of 2016

ORDER:

The first petitioner, who is A-15, in Crime No. 82 of 2016 of Rajam Police Station, Srikakulam District and the second petitioner who is not shown as accused, preferred the present application under Section 438 Cr.P.C., seeking release in the event of their arrest in the above crime registered against the first petitioner and others for the offence punishable under Sections 304-A, 338 read with 109 IPC and Sections 3, 4, 5 and 6 of the Explosives Substance Act, 1908.

2. The case of prosecution is as under :

The V.R.O., of Guravam village, Rajam Mandal, lodged a report stating that A-1, A-4, A-5 and A-10, who are residing in a thatched house, procured raw material for making fire crackers from the petitioner, who runs a fire works shop at Vizianagaram. It is their case that the accused dumped huge quantity of material to manufacture fire crackers, on an order placed by the customers and villagers of surround villages for their wedding celebrations and other occasions. While so on 18.04.2016 morning A-1, A-2, D-3, D-4, A-5, A-6, A-7, A-8, A-9, A-10, A-11, A-12 and their relatives D-1 and D-2 were manufacturing pyrotechnics at the thatched house of one Palavalasa Srinivasarao, when an explosion of fire crackers occurred due to which huge fire broke out

with unbearable sound. The flames engulfed the thatched houses, leading to death of four persons who were making the crackers apart from causing injuries to many. In fact most of the accused received burn injuries all over the body. Since A-15 supplied material to persons, who are not authorized to hold the material, the present case came to be registered against him as well.

3. Learned counsel for the petitioners mainly submits that the first petitioner is having permission to sell crackers and also the raw material for making the crackers and if some of the accused do not use it in the manner in which it should be used, the first petitioner cannot be put to blame. The same is opposed by the learned Additional Public Prosecutor contending that the first petitioner can not sell explosive material to the persons who have no licence to store the said material.

4. Learned counsel for the petitioners placed on record, the permissions said to have been issued by the Government of India permitting the first petitioner to store and sell explosives/fire works. He placed on record the licence dated 30.03.2016 issued to the first petitioner for possessing and selling of fire works, Chinese crackers and/or sparklers. The licence is valid for a period of five years expiring on 31.03.2021. It was further observed that the licence shall be suspended or revoked for any violation of the Act or rules framed thereunder. He also placed on record licence to show that he can sell

Sulphur. The said licence is still in force. But the material placed by the learned Additional Public Prosecutor show that apart from Sulphur various other material was seized from the scene of offence. Definitely the petitioner has no licence to sell the said material.

5. In view of the statements of the witnesses and also the confession made by the accused that all the material was purchased from the petitioner, who has licence to sell Sulphur, the request of the petitioner for anticipatory bail cannot be considered. However, since all the other accused are released on bail, the petitioner if so, advised to surrender before the concerned court and move an application seeking regular bail after giving prior notice to the Public Prosecutor and in which event the same shall be considered at the earliest in accordance with law.

6. With the above direction, the criminal petition is disposed of.

JUSTICE C. PRAVEEN KUMAR

Dt:16.09.2016

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