

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.3218 of 2017

ORDER:

This Criminal Petition, under Sections 437 and 439 of the Code of Criminal Procedure Code, 1973, ('Cr.P.C.', for brevity) is filed by petitioners/Accused Nos.2 and 3, requesting to enlarge them on bail in S.C.No.357 of 2015 on the file of the Principal Sessions Judge, Guntur, for the offences punishable under Sections 302 read with Section 120-B of I.P.C.

2. The petitioners were enlarged on bail earlier, since the entire investigation is completed and charge sheet was filed. Initially, the Magistrate concerned, after concluding that the case is exclusively triable by the Court of Sessions, committed the matter to the Court of Sessions, which was numbered as S.C.No.357 of 2015 and which is pending before the Court of Principal Sessions Judge, Guntur.

3. The Court of Sessions fixed the schedule for trial on three occasions, i.e., on 22.12.2016, 29.12.2016 and 02.01.2017. On 22.12.2016, A-3 was absent; On 29.12.2016, A-4 was absent and on 02.01.2017, both A-2 and A-3 were absent. Thus, the petitioners herein appear to have avoided the trial in the matter before the Court of Sessions, obviously for the reasons best known to them. When the petitioners were absent before the Court of Sessions on the date when the schedule was to be fixed, at least the petitioners ought to have filed an application before the Court of Sessions to proceed with the trial in the absence of those accused, who are absent. They did not choose to do so and resorted to the practice of avoiding the trial itself. Thus, the scheduled so fixed was cancelled due to the absence of the petitioners. Thereafter, the Court of Sessions issued NBWs against the petitioners. Having conveniently absent before the Court of Sessions on three occasions, the petitioners have filed a

petition before the Court of sessions to recall the NBWs, which was dismissed by the Court below. Thereafter, the petitioners moved another application for grant of bail before the Court below, which also ended in dismissal. Now the petitioners filed this Criminal Petition before this Court seeking bail on the same grounds.

4. As the petitioners, in gross violation of the undertaking given by them by executing a personal bond in favour of the Court, have deliberately absent before the Court and avoided trial of the case, this Court is of the considered view that the petitioners are disentitled to claim bail. That apart, the petitioners are responsible for delay in disposal of the sessions case. If bail is now granted to the petitioners, there is no guarantee that they will appear before the Court below and face the trial, in view of their past conduct in appearing before the Court below. Therefore, I do not find any grounds to enlarge the petitioners on bail, who are guilty of laches and who violated the terms and conditions of the bond executed in favour of the Court.

5. In the circumstances, I find that it is a fit case to direct the Principal Sessions Judge, Guntur, to try and decide the matter as expeditiously as possible, in any event not later than six months from today.

6. With the above direction, this Criminal Petition is dismissed. Miscellaneous petitions pending, if any, in this Criminal Petition shall stand closed.

27th April, 2017
Bvv

M.Satyanarayana Murthy, J