

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION Nos.7424, 7510 and 7489 OF 2017

COMMON ORDER:

The petitioners, Bezavada Vera Venkata Babu Rao and Kaja Kishore are A14 and A15 respectively of three crimes in 97 of 2015 of Kandukur Town Police Station, 3 of 2015 of Cumbum Police Station and 9 of 2015 on Ongole I Town Police Station of Prakasam District.

Undisputedly, none of the crimes covered by the penal provisions are punishable above 10 years and by the time, the applications filed by the petitioners in the three cases supra covered by the impugned dismissal order of the learned Judge vide CrI.P.Nos.335, 333 and 334 of 2017 filed on 06.06.2017 ended in dismissal. The 60 days period after taken remand to judicial custody pursuant to the P.T.warrant having been produced in these respective crimes by the docket orders dated 06.04.2017, completed including from the reading of Section 167(2) to (5) Cr.P.C. and one of the day excluded at least at any cost by the date the applications filed, however, those were ended in dismissal. The law is clearly settled that moving the Court by application of availment of default bail itself is enough for no grounds to make out for entitlement of bail like in a regular bail application. Once such is the case including from the latest expression of the Apex Court in Rakesh Kumar Paul v.

State of Assam¹ in Special Leave to Appeal (Crl.Nos.2009 and 2176 of 2017, dated 16.08.2017, even a subsequent filing of the charge sheet after filing of the application for default bail will not enable the Court to review the entitlement of default bail.

Having regard to the above, the dismissal order of the learned Magistrate is unsustainable and the petitioners/ A14 and A15 are entitled to the default bail. However, it is made clear that if at all the accused are required in any other crime under which they are in judicial custody, this entitlement of the default bail in this case automatically will not enable to release them by the trial Court.

Accordingly, the three Criminal Petitions are allowed by setting aside the dismissal orders of the trial Court and by granting default bail with a direction to the trial Court to release them on furnishing security for Rs.10,000/- (Rupees Ten thousand only) with two surities of like sum each in each case to the satisfaction of the learned Magistrate.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 01-09-2017

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¹ MANU/SC/0993/2017