

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.1219 OF 2017

ORDER:

This criminal petition is filed under Section 438 of Cr.P.C to enlarge the petitioner/A5 on bail in the event of his arrest in connection with Crime No.165 of 2016 of Julurpad Police Station, Bhadradri Kothagudem District, registered for the offences punishable under Sections 304-A and 201 IPC read with Section 34 IPC.

The offences allegedly committed by the petitioner are punishable under Sections 304(A) and 201 IPC, which are bailable offences. Whereas, the Public Prosecutor fairly conceded that the petitioner did commit no offence punishable under Section 135 of the Electricity Act, which is a non-bailable offence.

When the petitioner has allegedly committed offence punishable under Sections 304(A) and 201 IPC, which are bailable, a petition under Section 438 Cr.P.C. cannot be entertained, since the language used in Section 438 is clear that where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for grant of bail. Here, there is no apprehension much less reasonable apprehension of his arrest in connection with a non-bailable offence. Therefore, Section 438 has no application to the offences, which are committed by the petitioner.

In these circumstances, this petition is dismissed leaving it open to the petitioner to approach the trial Court for appropriate relief.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

Date: 16.02.2017
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