

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.1588 of 2017

ORDER:

This Criminal Petition under Sections 437 and 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to enlarge the petitioner/Accused No.3 on bail, who is in judicial custody since 26-07-2016 in Crime No.89 of 2013 on the file of Tuni Town Police Station, registered for the offence punishable under Section 8-C of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short '1985 Act').

The case of the prosecution is that the petitioner was already enlarged on bail earlier and thereafter schedule for trial was fixed on 12-07-2016. But on the date of commencement of trial the petitioner was absent as he involved in the other crime. Therefore, the Sessions Judge issued N.B.W. against this petitioner on 12-07-2016 and the petitioner was produced by Police in execution of N.B.W. before the Sessions Court on 26-07-2016 since then he is in judicial custody.

Learned counsel for the petitioner contended that the trial is commenced and it is coming for the evidence of Investigating Officer. Thus, it is clear that it is at the fag end of the trial and for completion of entire prosecution evidence and to dispose of the matter, at best, it may take another 15 days or one month.

Granting bail is only on execution of bond is to secure the presence of the accused during the trial but the reason for the petitioner's absence is that he was allegedly implicated in the other case and he was in judicial custody in other case, therefore, in such case the petitioner cannot be blamed for his absence. But the N.B.W. was executed and he was produced before the Court by police instead of issuing P.T. warrant.

Even according to the allegations made in the petition the petitioner involved in an identical offence, which is the subject matter of S.C.No.28 of 2016, and in such a case the petitioner cannot be enlarged on bail in view of the bar under Section 37 of the Act. However, the Sessions Judge is directed to complete the trial and dispose of the matter as expeditiously as possible in any event not later than two (2) months.

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

Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

April 26, 2017

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