

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.341 OF 2017

ORDER:

This criminal petition is filed under Section 437 & 439 of Cr.P.C to enlarge the petitioner on bail in S.C.No.26 of 2012 on the file of I Additional Metropolitan Sessions Judge, Hyderabad, for the offences punishable under Sections 201, 212, 120(B), 302 r/w 34 I.P.C.

The specific allegation against the petitioner is that, the petitioner who is a license holder of fire-arm handed over the fire-arm to A-1, who in-turn used the fire-arm for killing Maddelacheruvu Suryanarayana Reddy, who involved in various serious offences. The main contention of petitioner before this Court is that the petitioner cannot be languished in jail for such a long time as pre-trial detention and he is liable to be enlarged on bail, since the allegation is that he aided A-1 by lending his fire-arm.

The learned Public Prosecutor for the State of Telangana contended that the trial is commenced and 36 witnesses were already examined from 28.08.2010 onwards and if the petitioner is enlarged on bail, it would be difficult to secure his presence, the petitioner being a native of Uttar Pradesh State who is indulged in similar activities.

It appears, the petitioner filed several bail applications which ended in dismissal and since he is languishing in jail since 21.01.2011, the petitioner filed another bail application before the I

Additional Metropolitan Sessions Judge, Hyderabad in Crl.M.P.No.2912 of 2016 in S.C.No.26 of 2012, which ended in dismissal on 16.12.2016 by the Sessions Judge, assigning its own reasons.

Learned counsel for the petitioner placed reliance on the judgment of the Division Bench of this Court in CrlAMP.No.1687 of 2016 in Crl.A.No.607 of 2011, where this Court while relying on **Dharam Pal v. State of Haryana**¹, laid down certain guidelines and one of the guideline is that a person who is convicted for life and whose appeal is pending before this Court is entitled to apply for bail after he has undergone a minimum of five years imprisonment following his conviction. But here, the situation is totally different and the petitioner is involved in a grave offence of lending his fire-arm to another person, which resulted in killing a notorious criminal. That apart, trial is commenced and out of 117 witnesses, 36 witnesses were already examined. Therefore, the judgment of the Division Bench of this Court referred supra has no application to the present case, since the present case is at the trial stage. However, in **Chenna Boyanna Krishna Yadav v. State of Maharashtra**² the Apex Court categorically held that languishing in a jail for long time is not a ground to enlarge the accused on bail. Therefore, by applying the principle laid down by the Supreme Court in **Chenna Boyanna Krishna Yadav**, I find that it is not a fit case to enlarge the petitioner on bail.

¹ (2000) 1 Chan LR 74

² (2007) 1 SCC 242

However, I deem it appropriate to issue a direction to the I Additional Metropolitan Sessions Judge, Hyderabad to complete the trial as per the schedule fixed by this Court and the State is directed to produce the witnesses as per the schedule enabling the I Additional Metropolitan Sessions Judge to decide the matter in accordance with law.

In the result, with the above directions, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any shall stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:24.01.2017

SP

