

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.2906 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 by the petitioner/ A.1 to enlarge him on bail in Crime No.174 of 2016 of Tenali Rural Police Station, Guntur District, registered for the offences punishable under Sections 498-A and 306 read with 34 of the Indian Penal Code, 1860 (for short 'I.P.C.').

One of the contentions raised by the counsel for the petitioner before this court is that the investigating agency did not file charge sheet before the court inspite of completion of entire investigation. The petitioner is in judicial custody since 99 days and sought for bail, though the earlier request was declined by this court in CrI.P.No.1609 of 2017 by order dated 02.03.2017.

No doubt the petitioner is entitled to claim statutory bail under Section 167(2) of Cr.P.C. subject to satisfying the requirements. But, while exercising power under section 439 of Cr.P.C., this court cannot grant statutory bail to the petitioner. However, after dismissal of the earlier bail application on 02.03.2017, no major changed circumstances are brought to the notice of this court except passage of time and he is in judicial custody for a long time.

In **State of Tamil Nadu v. S.A. Raja**¹ and **Rajesh Ranjan Yadav @ Pappu Yadav V. CBI through its Director**², the Apex Court held that this court cannot grant bail, unless there are major circumstances after

¹ (2007) 1 SCC 70

² (2007) 1 SCC 70

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dismissal of the earlier bail application. Therefore, in view of the principles laid down by the Apex Court, I am not inclined to enlarge the petitioner on bail based on the facts which remained as it is after dismissal of earlier bail application. However, the petitioner is at liberty to make appropriate application before the competent court under Section 167(2) of Cr.P.C., but subject to entitlement, and the court has to decide such application, in accordance with law.

With the above observation, this criminal petition is dismissed.

13.04.2017
BV



M.SATYANARAYANA MURTHY, J