

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1714 OF 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners - accused Nos.1 and 2 viz., Usha Pawar and Shaik Rehana requesting to relax the 1st condition imposed by the learned Metropolitan Sessions Judge -cum- Special Judge to try the offences under NDPS Act, Visakhapatnam, by the order, dated 07.02.2017, in Criminal M.P.No.308 of 2017 in Crime No.5 of 2017 of Prohibition and Excise Station, Chinthapalli.

2. The 1st condition of the learned Metropolitan Sessions Judge - cum- Special Judge to try the offences under NDPS Act, Visakhapatnam, reads thus:

“The petitioners/A1 and A2 shall be enlarged on bail on executing personal bond each for a sum of Rs.1,00,000/- with two sureties each who shall each furnish a fixed deposit of Rs.1,00,000/- drawn in the name of this Court and the same shall be submitted to the satisfaction of the learned Judicial First Class Magistrate, Chinthapalli. The bail is subject to verification of genuineness of the sureties.”

3. Sri Sravan Kumar Naidana, learned counsel for the petitioners, would readily agree that it is not a petition, which ought to be filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, ‘the Code’), when there is a specific provision under Sections 439(1)(b) and 440(2) of the Code.

4. However, the Registry, some how, asked the learned counsel to file petition under Section 482 of the Code and also directed to file the petitions of this nature under Section 482 of the Code.

5. An order is passed in alike petitions in CrI.P.Nos.1396 and 618 of 2017 and being pronounced today, holding that the request of this nature be entertained either under Section 439(1)(b) or 440 of the Code, where a specific provision is inlaid in the Code to seek appropriate relief.

6. Accordingly, the Criminal Petition is disposed of giving liberty to the petitioners to avail the opportunity by invoking the relevant provisions of law.

7. The Registry is directed to return the original/certified copy of the impugned order in Criminal M.P.No.308 of 2017 to the learned counsel for petitioners forthwith without any delay.

8. As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition shall stand closed.

A. SHANKAR NARAYANA, J

February 27, 2017.

Note: Issue C.C. today.
B/O.MD