

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.406 of 2017

ORDER :

The revision is filed aggrieved by the docket order dated 08.02.2017 in CrI.MP.No.502 of 2017 in S.T.C.No.160 of 2014 passed by the II Additional Junior Civil Judge, Tenali, Guntur District.

Heard the learned counsel for the petitioners and also the learned Public Prosecutor representing the State and perused the impugned order.

A perusal of the impugned order shows NBWs are pending against the accused for their non-appearance/ attendance knowingly, thereby not entitled to the concession of bail.

A reading of Section 436(2) Cr.P.C. clearly speaks, even in a bailable offence, though otherwise entitled as of right to bail, leave about without even an application and can be granted at the time of accepting the remand under Section 167 Cr.P.C. from the power of the Court; once NBW is issued and either executed or even appeared thereafter it tantamounts to a non-bailable offence and as a consequence earlier bail as bailable offence ceases even application filed for grant of bail it should be only under Section 437 Cr.P.C. and then it is not as of right to the entitlement of bail more particularly, from the observation of the Court that having filed the application before the High Court for quashment of the proceedings covered by S.T.C.No.160 of 2014 under Section 160 I.P.C. went unsuccessful, where given liberty for one to represent others if at all chosen, by filing application under Rule 37 of Criminal Rules of Practice. From that what the order of the lower Court observes is they have

knowledge and wantonly failed to attend, despite NBW pending and thereby, not a fit case even on the non-bailable application under Section 437 Cr.P.C. to grant bail. It is the same now impugned.

The impugned order holds good in other respects even not speaks in some many terms; but for the refusal of bail not tenable as the offence is very trivial in nature, undisputedly.

Having regard to the above, by setting aside the docket order dated 08.02.2017 in CrI.MP.No.502 of 2017 in S.T.C.No.160 of 2014 passed by the II Additional Junior Civil Judge, Tenali, Guntur District, the CrI.MP.No.502 of 2017 is allowed granting bail subject to condition of the petitioners executing personal bonds of Rs.10,000/- (Rupees Ten thousand only) each with two sureties of likesum each to the satisfaction of the learned Magistrate and on execution of such bonds only, the NBWs cease their force. Needless to say, for all the petitioners, a comprehensive solvency of even respective two persons can be accepted.

Accordingly, the Criminal Revision Case is disposed of.

Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:10-02-2017

Note:
Issue C.C. by 13.02.2017.
B/o.
pab