

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.2002 OF 2017

ORDER:

This petition is filed under Section 439 of Code of Criminal Procedure (for short "Cr.P.C.") to relax the condition of surety/solvency amount imposed vide order dated 28.06.2016 in CrI.P.No.736 of 2016 on the file of Special Judge for Andhra Pradesh Protection of Depositors of Financial Establishments Act-cum-Principal District and Sessions Judge, West Godavari at Eluru, wherein the Sessions Court directed to release the petitioner on executing a bond for Rs.5,00,000/- with two solvent sureties for the like sum each with personal bonds in the form of bank guarantee.

Dealing with similar circumstances on 17.02.2017 in CrI.P.No.1401 of 2017, this Court passed an order which is to the following effect:

"Heard Sri Shaik Karimulla, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

2. The request under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), is to relax the conditions imposed by the learned Special Judge for Andhra Pradesh Protection of Depositors of Financial Establishments Act - cum - Principal District and Sessions Judge, West Godavari at Eluru, by the order dated 28.06.2016 in Criminal M.P. No.736 of 2016 in Crime No.3 of 2015 of Pedapadu Police Station, of course, taken over by the Crime Investigation Department, Rajahmundry, and monitoring the case.

3. The petitioner viz., K.S. Ramachandra Rao, who is arraigned as accused No.9, alleged to have committed the offences punishable under Sections 420, 406 read with 120-B of the Indian Penal Code, 1860, and Section 5 of Andhra Pradesh Protection of Depositors and Financial Establishment Act.

4. When the bail was granted, the learned Special Judge imposed as many as seven (7) conditions. The petitioner is now seeking relaxation of condition No.1, which reads thus: "1. The petitioners/A.8 to A.10 are ordered to be released on bail on each of them executing bond for Rs.5,00,000/- with two solvent sureties for the like sum each with personal bonds in the form of bank guarantee."

The learned counsel would submit that in W.P.No.45271 of 2016 filed under Article 226 of the Constitution of India, this Court by the order dated 26.12.2016, in the very same crime so far as accused No.10 is concerned, relaxed condition No.1 directing to furnish a bank guarantee of Rs.1,00,000/- with two solvent sureties for a like sum each instead of Rs.5,00,000/-.

5. The present criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973, but not under Article 226 of the Constitution of India. The power under Article 226 of the Constitution of India is wider in amplitude compared to the power under Section 482 of Cr.P.C.

6. Therefore, it would be reasonable to relax condition No.1 and accordingly relaxed directing the petitioner to furnish a personal bond for Rs.3,00,000/- (Rupees three lakhs only) with two solvent sureties for like sum each. All other conditions remain unaltered.

7. With the above directions, the Criminal Petition is disposed of, at the admission stage itself.”

Learned counsel for the petitioner places on record the same order and requests this Court to pass similar order. Acceding to the request of the learned counsel for the petitioner, let, there be a similar order even in this case.

Reiterating the finding in the above judgment, I deem it appropriate to relax the condition and accordingly relaxed directing the petitioner to furnish a personal bond for Rs.3,00,000/- (Rupees three lakhs only) with two solvent sureties for like sum each. All other conditions remain unaltered.

With the above direction, the criminal petition is disposed of.

Consequently, miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Dated 09.03.2017

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