

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.11324 OF 2017

ORDER:

This Criminal Petition, under Section 438 of Cr.P.C., is filed by the petitioner/A.1, seeking anticipatory bail in the event of his arrest in connection with F.I.R. No.45/2017, on the file of Bollarum Police Station, Hyderabad city, registered for the offence under Section 304-B I.P.C.

Heard the learned counsel for the petitioner/A.1, learned Additional Public Prosecutor appearing for the respondent-State, and perused the record.

As per the docket proceedings of the XI Additional Chief Metropolitan Magistrate at Secunderabad dated 04.05.2017 the petitioner/A.1 was produced before that Court on 04.05.2017 at 11:00 a.m., in regard to the above crime, for the offences under Sections 304-B I.P.C. and Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and, thereafter, was handed over to the Military authorities, as per the provisions under Section 475 Cr.P.C. R/w.125 of the Army Act, 1950 R/w Rules 3 and 4 there under.

The prerequisite condition to seek anticipatory bail under Section 438 Cr.P.C. is apprehension of arrest for a non-bailable offence. When the petitioner was arrested and handed over to judicial custody, application for bail under Section 438 Cr.P.C. is not maintainable and as such the instant Petition is liable to be dismissed. However, it is made clear that as and when the petitioner is remanded in the above crime before the XI Additional Chief Metropolitan Magistrate, Secunderabad, he is at liberty move a regular bail.

Accordingly, with the above observation, the Criminal Petition is dismissed.

In consequence, miscellaneous petitions, if any, pending in this Criminal Petition shall also stand dismissed.

Dr. SHAMEEM AKTHER, J

Date: 29.11.2017.
Dsh



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