

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.3012 OF 2018

ORDER:

This petition is filed under Sections 437 and 439 of Code of Criminal Procedure (for short "Cr.P.C.") to enlarge the petitioner/accused No.1 on bail in S.C.No.339 of 2013 pending on the file of VI Additional District and Sessions Judge (Fast Track Court), Krishna at Machilipatnam, which is the subject mater of Crime No.198 of 2012 on the file of Chilakalapudi Police Station, Krishna District registered for the offence punishable under Sections 302 and 120-B of Indian Penal Code (for short "I.P.C.").

The case of the prosecution is that the petitioner was released on bail on 14.03.2013 and while the session case trial is going on, he allegedly involved in Crime No.06 of 2017 of Chilakalapudi Police Station for the offence punishable under Section 8-3 read with 20 (c) of N.D.P.S.Act, arrested and remanded to judicial custody and on 16.02.2018 he was released on bail. But for his failure to appear before the Court on account of detention in Crime No.06 of 2017, P.T. warrant was issued. Even though bail granted, the petitioner was not released on bail in view of P.T. warrant. However, he was produced on execution of N.B.W. before the Sessions Judge, Machilipatnam, thereafter examination under Section 313 Cr.P.C. was completed and the Sessions Case is, now, at the stage of arguments.

The main contention of the petitioner is that the reason for his failure to appear before the Court is not intentional and the

same is beyond his control and he was arrested in Crime No.06 of 2017 of Chilakalapudi Police Station and prayed to release the petitioner on bail.

Learned Public Prosecutor for the State of Andhra Pradesh opposed the petition on the ground that the petitioner is threatening the eyewitnesses in S.C.No.339 of 2013 and that he is not cooperating for disposal of the Sessions Case and would draw the attention of this Court to the specific observations made by the Sessions Judge in paragraph Nos.10 and 11 of the order in CrI.M.P.No.70 of 2018 in Sessions Case No.339 of 2013.

The serious observations made by the Sessions Judge in paragraph Nos.10 and 11 are as follows:

“10. It is not in dispute that the Superintendent of this Court has lodged a report to S.H.O. Chilakalapudi Police Station by stating that the record in this Sessions Case No.339/2013 was found missing since 19.06.2014. On the report given by Superintendent, it can be seen that a crime is registered as Cr.No.156/2014 of Chilakalapudi Police Station. Basing on the registration of the said crime and in absence of the filing of the charge sheet it is difficult to accept that the said record was stolen away the entire Court record in S.C.No.339 of 2013 by this petitioner/A1. It is also the submission of the Prosecution that while this matter is pending for trial, the petitioner/A1 threatened the victim and eye witnesses through phone and a crime was registered for the offences.

11. To establish the same, the learned Addl.Public Prosecutor has relied on copy of F.I.R. in Cr.No.44/2017 of Chilakalapudi Police Station, it shows that one G.Vijaya Lakshmi said to be the wife of the deceased had lodged a report stating that by virtue of the phone calls, they were threatened to face dire consequences in case they do not come forward for compromise with the accused herein.”

Thus, the conduct of the petitioner is clear that he is threatening the eyewitnesses with dire consequences if they did not come forward to compromise with the accused though Vijaya Lakshmi lost her husband in the murder, which is the subject

matter of S.C.No.339 of 2013. Moreover, the Sessions Case trial is at the stage of arguments.

Taking into consideration of stage of trial of Sessions Case, the Sessions Judge is directed to hear argument and dispose of the case as early as possible, preferably within one month from the date of receipt of a copy of this Order.

At this stage, learned counsel for the petitioner brought to my notice that Tr.O.P.No.80 of 2018 is pending before the District Judge, Krishna at Machilipatnam, for withdrawal of Sessions Case No.339 of 2013 pending on the file of VI Additional District and Sessions Judge (Fast Track Court), Krishna at Machilipatnam and transfer the same to any other competent Court.

In view of the submission of the learned counsel for the petitioner, the District Judge, Krishna at Machilipatnam is directed to dispose of Tr.O.P.No.80 of 2018 as expeditiously as possible and in the event of withdrawal and transfer, the concerned Sessions Judge is directed to dispose of the S.C.No.339 of 2013 within 30 days from the date of such withdrawal and transfer.

With the above direction, the petition is disposed of.

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

JUSTICE M. SATYANARAYANA MURTHY

21.03.2018
Ksp