

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.3622 of 2018

ORDER:

Heard learned counsel for petitioner/accused and perused the impugned order.

The learned counsel for petitioner would submit that the judgment in CC No. 438 of 2013 was pronounced by the Judicial First Class Magistrate, Macherla, Guntur District, on 7.12.2017, and on the submission of the petitioner that he was going to prefer an appeal, the trial Court passed an order granting 30 days time to enable him to prefer an appeal and enlarged him on bail and posted the matter to 5.1.2018. Therefore, by virtue of the said order, the petitioner had in fact 30 days time to prefer appeal and obtain suspension of sentence. However, the matter was called before the trial Court on 5.1.2018 and the petitioner/accused was present and submitted that he was still to obtain bail from the appellate Court i.e., District Court. The matter was passed over for consideration and called at 5.30 PM and at that time when the petitioner/accused, who is a physically challenged person, went out in the court premises to attend calls of nature, the matter was called and finding him that he was absent, the trial Court issued NBW. Thereafter, in the appeal preferred by the petitioner before the X Additional District & Sessions Judge, Gurazala, Guntur District, these facts were narrated, but the said Court on the observation that the petitioner/accused misled and made false representation to the Court on 23.1.2018 by filing a memo, stating that the trial Court suspended the sentence till 27.1.2018 from 5.1.2018 beyond the period of 30 days and accordingly dismissed the petition.

The submission of learned counsel for petitioner is that the petitioner/accused is a physically challenged person and considering the same suspension of sentence

may be granted to him by setting aside the impugned order. He produced a photo of the petitioner/accused.

In the interest of justice, this petition is allowed and the impugned order is set aside and suspension of sentence of imprisonment and bail are granted to the petitioner/accused, pending appeal, on his executing a personal bond for Rs. 20,000/- (Rupees Twenty Thousand Only) with two sureties each for likesum to the satisfaction of the trial Court.

As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

Date: 09.04.2018

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Note: Furnish copy by tomorrow.

U.DURGA PRASAD RAO, J

