

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.4307 OF 2018

ORDER:

This criminal petition, under Section 439 of the Code of Criminal procedure, 1973 (for short 'Cr.P.C'), is filed to enlarge the petitioner on bail as he was arrested for his failure to comply with the notice dt.18.12.2017 issued by the Executive Magistrate, Kadthal Mandal, Rangareddy District, calling upon him to appear before the Court, for forfeiture of the bond executed by him for keeping good behaviour in Crime No.306 of 2017 of Prohibition and Excise Police Station, Amangal.

It is an undisputed fact that this petitioner executed a personal bond for an amount of Rs.1,00,000/- for keeping good conduct in terms of Section 109 Cr.P.C., in favour of Executive Magistrate, Kadthal Mandal, Rangareddy District.

According to Section 109 Cr.P.C., when an Executive Magistrate receives information that within his local jurisdiction a person taking precaution to conceal his presence and that there is reason to believe that he is doing so with a view to committing a cognizable offence, the Magistrate may in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

The petitioner found indulged in Crime No.306 of 2017 registered for the offence punishable under Section 7(A) read with 8(3) of A.P. Prohibition Act, 1995 and Section 34(e) of the A.P.

- 2 -

Excise Act, and as such he was asked to execute a personal bond for an amount of Rs.1,00,000/- by the Executive Magistrate, Kadthal. Accordingly, the petitioner executed a personal bond for an amount of Rs.1,00,000/- in terms of Section 109 Cr.P.C., and thereafter he was found in possession of 12 liters of liquor and 20-kgs., of jaggery, and thereupon the learned Executive Magistrate issued a notice calling upon his explanation for proposed forfeiture of the said bond, but he did not receive the notice and thereafter the learned Executive Magistrate passed an order for forfeiture of the personal bond executed by the petitioner. But he did not appear and pay the amount covered by the personal bond, thereby the learned Executive Magistrate issued NBW and the police executed the same, produced him before the Magistrate and remanded to judicial custody for non-payment of the bond amount, which was forfeited.

Therefore, the Magistrate, upon satisfying the breach committed by the petitioner, forfeited the bond executed by the petitioner and remanded him to judicial custody for his failure to pay the amount.

Now the contention of the petitioner is that he did not involve in any crime, much less in Crime No.303 of 2017 and nothing was seized in the above said crime, but he was remanded to judicial custody for failure to pay the amount on its forfeiture by order dt.18.12.2017 passed by the learned Executive Magistrate.

It is not the case that the arrest of the petitioner is in connection with any crime, but remand is only on account of non-

- 3 -

payment of the amount in view of bond forfeited by the learned Executive Magistrate.

Therefore, the petitioner is not entitled to file the present petition, and at best, if he is aggrieved by the order passed by the learned Executive Magistrate, he can challenge the same under Section 397 Cr.P.C. or under any other provision of Cr.P.C., but not under Section 439 Cr.P.C. Hence, I find no ground to enlarge the petitioner.

In the result, the criminal petition is dismissed.

M. SATYANARAYANA MURTHY, J

Date: 20.04.2018
BV

