

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5779 OF 2018

ORDER:

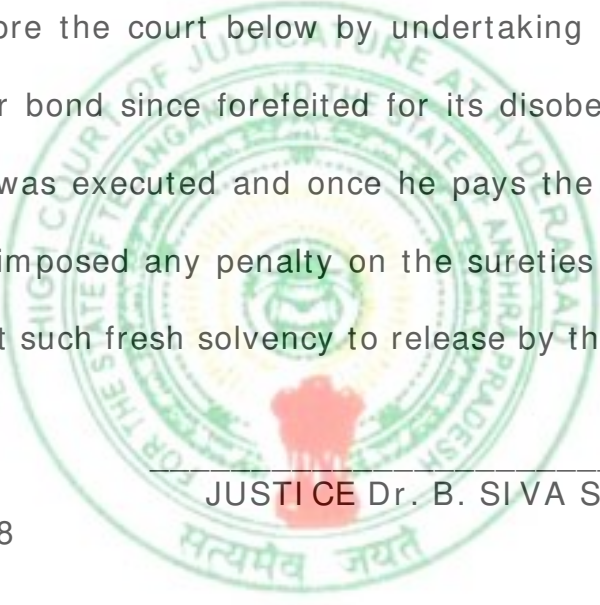
The petitioner is A1 in Sessions Case No.305 of 2015 pending on the file of the Court of X Additional District and Sessions Judge, Gurajala of Guntur District for the offence punishable under Section 302 IPC along with other accused for the murder of the one Irla Venkata Rao. It is covered by Crime No.49 of 2014 of Piduguralla P.S. of the occurrence date 11.04.2014 night. The petitioner was enlarged on regular bail so also A2. Subsequently, cognizance was taken and from the committal Sessions Case referred supra. In the course of the case coming for trial, petitioner-A1 failed to attend the court on 01.09.2017. His application for recall of the warrant filed more than one month 20 days thereafter on 25.10.2017 from his presence, was dismissed and he was taken to judicial custody and remanded to central jail. Later, he moved the bail application in CrI.MP.No.506 of 2017 and that bail application was ended in dismissal on 21.01.2018 with an observation that he is in the habit of absconding nature and he is non-cooperative even A2 was regularly attending. The present bail application is filed thereby.

2. Heard the counsel for the petitioner and the Public Prosecutor.

3. Undisputedly, the bail order is not cancelled either, under Sections 437(5) or 439(2i) CrPC, from a perusal of the above

record. Once NBW issued and even recall petition dismissed and taken to custody, the only recourse available to the accused is by payment of penalty for the earlier disobedience to the bond executed by him and the sureties and to furnish fresh bonds. Instead of that recourse, he moved a fresh bail application and again moved the present bail application, which is not maintainable.

4. Having regard to the above, the Criminal Petition is disposed of giving liberty to the petitioner to submit fresh solvency before the court below by undertaking to pay penalty on the earlier bond since forfeited for its disobedience and for NBW issued was executed and once he pays the penalty, again need not be imposed any penalty on the sureties and subject to that to accept such fresh solvency to release by the Court below.



JUSTICE Dr. B. SIVA SANKARA RAO

June 14, 2018
LMV